

# CHAPTER 2

## BOROUGH INCORPORATION STANDARDS

Section A. Introduction.

Section B. Constitutional Standards for Borough Incorporation.

Section C. Statutory Standards for Borough Incorporation.

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### Section A. Introduction.

The Constitution of the State of Alaska, Alaska Statutes, and Alaska Administrative Code each contain standards or criteria for borough incorporation. Those standards relate to the following four broad categories:

- economic capacity;
- population size and stability;
- regional commonalties (social, cultural, economic, geographic, transportation, and communication ties); and
- broad public interest.

The standards are formally identified and discussed in this part of the report. The review begins with the constitutional standards, and progresses to the standards established in the Alaska Statutes and Alaska Administrative Code.

### Section B. Constitutional Standards for Borough Incorporation.

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#### Part 1. Background.

Article X of Alaska's Constitution provides the framework for local government in Alaska. Eight of the fourteen sections in Article X relate (to varying degrees) to the nature of boroughs and their establishment. Those are Article X, Sections 1, 2, 3, 5, 6, 7, 12, and 13.<sup>1</sup>

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<sup>1</sup> Provisions in other articles of Alaska's constitution may also be relevant to the matter of establishment of boroughs. In particular, Article I, Section 1 may be viewed as a constitutional policy promoting equal responsibility on the part of all Alaskans to share in the opportunities and obligations associated with local government. It provides that "... that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that *all persons have*

Article X, Section 3 deals most specifically with borough standards. However, three other sections of Article X – Sections 1, 2, and 12 – also provide fundamental guidance concerning the character of boroughs and their creation. The focus of the other four sections – Sections 5, 6, 7, and 13 – lies principally with other aspects of Alaska local government. However, those four sections buttress the fundamental nature of boroughs set out in Sections 1, 2, 3 and 12.

The ensuing discussion of the constitutional standards begins with the most basic (Section 3) followed by Sections 1, 2, 12, and ends with the four secondary provisions.

## **Part 2. Article X, Section 3. Boroughs.**

Article X, Section 3 of Alaska’s constitution has four principal elements. It provides that:

1. all of Alaska must be divided into boroughs (those boroughs may be organized and/or unorganized);
2. each of those boroughs must be established in a manner and according to standards enacted by the Alaska Legislature;<sup>2</sup>
3. the standards established by the Legislature must include population, geography, economy, transportation, and other factors;
4. each borough must have common interests.

The Committee on Local Government at the Alaska Constitutional Convention envisioned boroughs as units of government that would cover large areas. According to Vic Fischer:<sup>3</sup>

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*corresponding obligations to the people and to the State.”* (emphasis added). Only the constitutional provisions set out in Article X will be addressed here.

<sup>2</sup> Article X, Section 3 states, in part, “They [boroughs] shall be established in a manner and according to standards provided **by law**.” (emphasis added). Article XII, Section 11 states that “As used in this constitution, the terms “by law” and “by the legislature” or variations of these terms, are used interchangeably when related to law-making powers.”

<sup>3</sup> Mr. Fischer is recognized by the Alaska Supreme Court as “an authority on Alaska government.” *Keane v. Local Boundary Commission*, 893 P.2d 1239, 1244 (Alaska 1995). The Court has relied on his work in the *Keane* case (1242, 1243) and in the *Mobil Oil* case (98). Mr. Fischer is well known to most members of the Commission. He has addressed the majority of the current Commission in the past on a number of occasions concerning matters relating to local government in Alaska. Most recently, he addressed all current members of the Commission on August 10, 2002. Mr. Fischer received a bachelor’s degree from the University of Wisconsin in 1948 and a Master’s Degree in Community Planning from the Massachusetts Institute of Technology in 1950. He also received the Littauer Fellowship in public administration from Harvard University (1961-1962). Mr. Fischer has held several planning related positions in Alaska. He was a delegate to the Alaska Constitution

As the committee was evolving [borough] principles, its members agreed that some type of unit larger than the city and smaller than the state was required to provide both for a measure of local self-government and for performance of state functions on a regionalized basis.

. . . the initial principles set forth by the committee for consideration in the formation of the new areawide government units included these guidelines: . . .

- Units should cover large geographic areas with common economic, social, and political interests. . . .

Victor Fischer, *Alaska's Constitutional Convention*, p. 118 – 119, (1975).

The regional characteristic of boroughs is reflected in Article X, Section 3 of the Constitution which provides as follows.

**SECTION 3. BOROUGHES.** The entire State shall be divided into boroughs, organized or unorganized. They shall be established in a manner and according to standards provided by law. The standards shall include population, geography, economy, transportation, and other factors. Each borough shall embrace an area and population with common interests to the maximum degree possible. The legislature shall classify boroughs and prescribe their powers and functions. Methods by which boroughs may be organized, incorporated, merged, consolidated, reclassified, or dissolved shall be prescribed by law.

The fourth sentence of Article X, Section 3, which provides that “[e]ach borough shall embrace an area and population with common interests to the maximum degree possible”, is particularly significant regarding the fundamental characteristic of boroughs. That sentence, by itself, does not indicate the territorial or socioeconomic scale at which the commonality of interests is to be evaluated. However, the minutes of the Alaska Constitutional Convention provide compelling evidence as to the framers’ intent regarding the character and scope of boroughs.

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Convention in 1955-1956. During the convention he was a member of the Committee on Local Government and served as its Secretary. Mr. Fischer has written and co-authored a number of books and publications concerning state and local government in Alaska. These include *The State and Local Governmental System* (1970), *Borough Government in Alaska* (1971), and *Alaska's Constitutional Convention* (1975). Mr. Fischer served in Alaska's Territorial House of Representatives (1957-1959) and the Alaska State Senate (1981-1986). He was a member of the faculty of the University of Alaska Fairbanks and of the University of Alaska Anchorage. At the University, he was primarily associated with the Institute for Social and Economic Research, where he was director for ten years. His current work includes studying Alaska Native and regional governance issues.

1 In the following exchange, delegate John Rosswog, Chairman of the Committee  
2 on Local Government, responded to a query from delegate John Coghill on  
3 January 19, 1956 about the Committee's intent with respect to the language that  
4 each borough shall embrace an area and population with common interests to  
5 the maximum degree possible.

6  
7 COGHILL: Further on in Section 3, I would like to ask you, Mr.  
8 Rosswog, on line 6 of page 2, "Each borough shall embrace, to the  
9 maximum extent possible, an area and population with common  
10 interests." My question here is directed to you to find out what the  
11 Committee's thinking was as to boundary areas of local  
12 government. Could you give us any light on that as to the extent? I  
13 know that you have delegated the powers to a commission, but you  
14 have said that each borough shall embrace the maximum extent  
15 possible. I am thinking now of an area that has maybe five or six  
16 economic factors in it -- would they come under one borough?

17  
18 ROSSWOG: We had thought that the boundaries should be  
19 flexible, of course, and should be set up so that we would not want  
20 too small a unit, because that is a problem that has been one of the  
21 great problems in the states, the very small units, and they get  
22 beyond, or they must be combined or extended.

23  
24 *Proceedings of the Alaska Constitutional Convention*, Alaska State Legislature,  
25 Legislative Council p. 2620 – 2621 (1963).

26  
27 A nearly identical question arose on the floor of the Convention later that same  
28 day. Delegate Barrie White inquired about the Committee's intent with respect to  
29 the term "maximum extent possible." Committee member James Doogan and  
30 Committee Chairman John Rosswog responded:

31  
32 WHITE: Mr. President, on page 2, Section 3, I would like to ask the  
33 Committee, on line 4, if the words "to the maximum extent possible"  
34 could be construed to mean the largest possible area?

35  
36 PRESIDENT EGAN: Mr. Doogan.

37  
38 DOOGAN: I think that is the intent. It was pointed out here that  
39 these boroughs would embrace the economic and other factors as  
40 much as would be compatible with the borough, and it was the  
41 intent of the Committee that these boroughs would be as large as  
42 could possibly be made and embrace all of these things.

43

1 WHITE: Is it the thinking of the Committee that the largest possible  
2 area, combining area and population, with common interest, would  
3 be the most desirable type of borough?  
4

5 PRESIDENT EGAN: Mr. Rosswog.  
6

7 ROSSWOG: Could I answer on that? I think that was the idea or  
8 the thinking of the Committee that they would have to be fairly large  
9 but the wording here would mean that we should take into  
10 consideration the area and population and common interest to the  
11 maximum extent possible because you could not say definitely that  
12 you were taking it all in, but as much as you possibly could.  
13

14 *Id.* p. 2638.  
15

16 The following day, January 20, 1956, delegate Katherine Nordale raised the  
17 virtually identical question. Vic Fischer, Local Government Committee Secretary  
18 responded.  
19

20 NORDALE: Mr. President, I think this was brought up yesterday,  
21 but I have sort of forgotten what was said. It is just a question. On  
22 line 4, page 2 of Section 3, there was some discussion of the  
23 wording, "Each borough shall embrace to the maximum extent  
24 possible an area and population with common interests." Does that  
25 mean to the greatest degree it shall be a group of people with  
26 common interests? Nothing to do with the area -- I mean the square  
27 mile?  
28

29 V. FISHER: What it means is that wherever possible, "Each  
30 borough shall embrace an area and population with common  
31 interests.  
32

33 *Id.* p. 2711.  
34

### 35 **Part 3. Article X, Section 1. Purpose and Construction.** 36

37 Article X, Section 1 sets out the purpose of the local government article of the  
38 constitution. It also provides the framework for construction of local government  
39 powers.  
40

41 In terms of borough standards and the creation of boroughs, Article X, Section 1  
42 establishes two fundamental provisions. First, it encourages the creation of

borough governments in areas of Alaska that meet borough standards.<sup>4</sup>  
Secondly, it establishes a constitutional policy favoring a minimum number of  
borough governments.<sup>5</sup>

Vic Fischer indicates that one of the basic principles concerning borough  
formation set forth by the Local Government Committee was that, “units should  
be large enough to prevent too many subdivisions in Alaska . . .” Victor Fischer,  
*supra*, p. 119. When harmonized with other standards for borough government,  
the minimum governments principle of Section 1 further promotes the concept of  
large boroughs.

Section 1 of Article X states as follows:

**SECTION 1. PURPOSE AND CONSTRUCTION.** The  
purpose of this article is to provide for maximum local self-  
government with a minimum of local government units, and  
to prevent duplication of tax levying jurisdictions. A liberal  
construction shall be given to the powers of local  
government units.

The constitutional policies in Article X, Section 1 concerning “minimum of local  
government units” and prevention of “duplication of tax levying jurisdictions”  
addressed a matter of great concern at the time Alaska’s constitution was  
drafted. Specifically, those clauses blocked the fragmentation of governing  
authority among many overlapping, often single-purpose, governmental  
agencies, with a corresponding loss of capacity to perform, and loss of clear  
political and fiscal accountability. Taken together, the two principles do not limit  
the creation of boroughs to a specific number. Instead, it limits their creation by  
the principle that only the minimum number of boroughs necessary to provide  
effective and efficient local self-government should be created.

#### **Part 4. Article X, Section 2. Local Government Powers.**

Article X, Section 2 of the constitution concerns the vesting of powers in local  
governments. In terms of the standards for boroughs, it relevant to stress that  
Article X, Section 2 recognizes only two types of local governments – cities and  
boroughs. It provides as follows:

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<sup>4</sup> *Mobil Oil Corporation v. Local Boundary Commission*, 518 P.2d 92 (Alaska 1974).

<sup>5</sup> In relevant part, Article X, Section 1 states, “The purpose of this article is to provide for ... a  
minimum of local government units.”

**SECTION 2. LOCAL GOVERNMENT POWERS.** All local government powers shall be vested in boroughs and cities. The State may delegate taxing powers to organized boroughs and cities only.

Cities and boroughs are identical in certain fundamental respects. For example, both are municipal corporations and both are political subdivisions of the State of Alaska. Moreover, the powers and duties of boroughs are comparable to those of home rule and first class cities in the unorganized borough.

However, major distinctions exist between boroughs and cities with respect to form. Boroughs are intended to serve large, natural regions. In sharp contrast, city governments are intended to serve only communities. Thus, home rule and first class cities may exercise borough-like powers, but only within city jurisdictions. Conversely, it could be said that boroughs exercise home rule or first class city-like powers, but over regional jurisdictions.

Cities are subject to the “limitation of community” doctrine while boroughs are not. The Alaska Supreme Court held as follows concerning that distinction.<sup>6</sup>

[Appellants] offer a series of cases striking down municipal annexations and incorporations where the lands taken have been found to receive no benefit. We find this authority unpersuasive when applied to borough incorporation. In most of these cases, the courts inferred from statutes or state constitutions what has been called a ‘limitation of community’ which requires that the area taken into a municipality be urban or semi-urban in character.

There must exist a village, a community of people, a settlement or a town occupying an area small enough that those living therein

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<sup>6</sup> In the *Mobil Oil* case (involving incorporation of the North Slope Borough) the Court addressed the limitation of communities doctrine by making a distinction between boroughs and what it termed “municipalities” (e.g., “boroughs are not restricted to the form and function of municipalities”). In the view of the Commission, the Court was clearly referring in the *Mobil Oil* case to “cities” (or derivatives thereof such as “city”, or “city government”) when it used the term “municipalities”, (or derivatives thereof such as “municipality”, or “municipal”). It is significant in that regard that when the North Slope Borough incorporation petition was filed, statutory standards and procedures for borough incorporation as well as other laws concerning boroughs were codified in “Alaska Statutes – Title 7 – Boroughs.” In contrast, statutes relating to cities were codified in “Alaska Statutes – Title 29 – Municipal Corporations.” The Court made reference to borough standards and other provisions in AS 07 seventeen times in the *Mobil Oil* case. In 1972, Titles 7 and 29 of the Alaska Statutes were repealed and new laws concerning both cities and boroughs were enacted as “Alaska Statutes – Title 29 – Municipal Government”. Today, AS 29 refers to both cities and boroughs as municipalities. The distinction in the terms used by the Court in *Mobil Oil* to describe the two types of governments (i.e., “boroughs” and “municipalities”) was purely nominal. However, the distinction made by the Court as to the form of the two types of governments (boroughs and cities) was significant.

1                   may be said to have such social contacts as to create a  
2                   community of public interest and duty. . . .

3  
4                   The limitation has been found implicit in words like ‘city’ or ‘town’ in  
5                   statutes and constitutions or inferred from a general public policy of  
6                   encouraging mining or agriculture. In other cases, the limitation  
7                   has been expressed as a finding that the land taken is not  
8                   susceptible to urban municipal uses. The result in these cases was  
9                   determined not by a test of due process but by restrictions in  
10                  pertinent statutes and constitutions on the reach of municipal  
11                  annexations and incorporations.

12  
13                  Aside from the standards for incorporation in AS 07.10.030, there  
14                  are no limitations in Alaska law on the organization of borough  
15                  governments. Our constitution encourages their creation. Alaska  
16                  const. art. X, § 1. And boroughs are not restricted to the form and  
17                  function of municipalities. They are meant to provide local  
18                  government for regions as well as localities and encompass lands  
19                  with no present municipal use.

20  
21                  *Mobil Oil Corp. v. Local Boundary Commission*, 518 P.2d 92, 100 (Alaska 1974)  
22                  (footnotes omitted).

23  
24                  The limitation of communities doctrine is implicit in the Alaska Statutes  
25                  concerning incorporation of cities.<sup>7</sup> Moreover, that doctrine is explicit in the  
26                  Alaska Administrative Code governing city incorporation and city annexation. See  
27                  3 AAC 110.040(b)-(c) and 3 AAC 110.130(c)-(d).

28  
29                  Both cities and boroughs embrace territory with common social, cultural, and  
30                  economic interests. However, they do so at distinctly different scales. As  
31                  implicitly and explicitly reflected in Alaska’s constitution, statutes, and  
32                  administrative regulations, each city government must embrace a community.  
33                  The term “community” in that context is a discrete locale and population with

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<sup>7</sup> Note the use of the term “community” in AS 29.05.011(a)(1), (3), (4) and (b). In that context, the term “community” is defined by 3 AAC 110.990(5) to mean a social unit of 25 or more permanent residents as determined by 3 AAC 110.920. A community exists where individuals reside permanently in a close geographical proximity that allows frequent personal contacts and comprise a population density that is characteristic of neighborhood living. Factors such as school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers are evidence of a community. Further, the law presumes that a population does not constitute a community if public access to or the right to reside at the settlement is restricted, if the population is adjacent to a community and is dependent upon that community for its existence, or if the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence. in that same context is defined in 3 AAC 110.990(5).



1 significant common interests concerning social, cultural, economic, and other  
2 characteristics.

3  
4 As reflected in the preceding discussion, each borough must maximize the area  
5 and population within its boundaries, but with the proviso that the maximum area  
6 and population also embrace common interests. The requirement for maximum  
7 area and population necessarily presumes an acceptable level of common  
8 interests less than that found at the community level.

9  
10 The following discussion on the floor of the Constitutional Convention on January  
11 19, 1956 between delegate James Hurley, Local Government Committee  
12 Chairman John Rosswog, Local Government Committee member Eldor Lee and  
13 delegate John Hellenthal further reflects the conceptual nature of a borough. It  
14 demonstrates that the Local Government Committee had no precise upper or  
15 lower limits in mind regarding the geographic size of boroughs. However, the  
16 dialogue also provides additional evidence that the delegates foresaw, in general  
17 terms, relatively large boroughs. Perhaps most importantly, however, the  
18 exchange provides insights with respect to the framers' vision concerning the  
19 requisite degree of common interests within boroughs.

20  
21 HURLEY: Mr. President, going back to Section 4, the matter has  
22 been mentioned many times about the possible thinking as to the  
23 size of the boroughs. I took occasion to check back into the criteria  
24 which would be used for the establishment of election districts. I  
25 find that except for two different words they are the same as the  
26 criteria that you use for the establishment of boroughs: population,  
27 geographic features, and the election districts say integrated socio-  
28 economic areas, and you say economy and common interests  
29 which I think means the same thing. Consequently, I might be led to  
30 the conclusion that your thinking could well be carried out by  
31 making election districts and boroughs contiguous or congruous,  
32 the same area, is that true?

33  
34 ROSSWOG: It was thought this should be left very flexible. Of  
35 course, you would not say they should be the same as election  
36 districts because of rather unwieldiness for governing. It would  
37 more possibly, and should, take more study of whether the size  
38 should bear on whether your governing body would be able to  
39 supervise an area of that size.

40  
41 PRESIDENT EGAN: Mr. Lee.

42  
43 LEE: Mr. Hurley, I think we are unanimous in the opinion that many  
44 of these boroughs will be substantially the same as election districts

1 but that is just the idea that we had in mind. Some of them won't be  
2 feasible, but in our thinking I consider that form of boroughs we felt  
3 they would be much the same as an election district.

4  
5 PRESIDENT EGAN: Mr. Hellenthal.

6  
7 HELLENTHAL: Did any of you think that they might ever be greater  
8 than the election districts in size?

9  
10 LEE: If that question is directed to me, we did not give it any  
11 consideration because actually we have not made any statement  
12 about the size. But in our thinking we didn't consider that thought,  
13 but it is certainly very possible.

14  
15 HELLENTHAL: In other words, that the boundaries of the election  
16 districts could possibly be maximums governing the size of the  
17 boroughs?

18  
19 LEE: It is possible. It is up to the legislature to decide.

20  
21 HELLENTHAL: Would it be desirable to make them minimums?

22  
23 LEE: That would take away the flexible portion which we wish to  
24 keep here.

25  
26 HELLENTHAL: I gather then you would not desire to make them  
27 minimums but probably would have little objection to making them  
28 maximum.

29  
30 LEE: I can't speak for the Committee. I would have no objection,  
31 personally.

32  
33 The framers envisioned that the initial State election districts would be, in many  
34 cases, models for future boroughs. As originally adopted, Article VI, Section 6 of  
35 Alaska's constitution established the following standards for drawing State House  
36 election districts (emphasis added by underlining):<sup>8</sup>

37  
38 Section 6. Redistricting. The governor may further redistrict by changing the  
39 size and area of election districts, subject to the limitations of this article. Each  
40 new district so created shall be formed of contiguous and compact territory

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<sup>8</sup> Article VI was amended in 1999. The amendments dealt principally with the process for redistricting. However, two changes dealt somewhat with the standards. Both occurred in the third sentence which was revised as follows (added text in bold type and underlined, deleted text struck through): "Each shall contain a population as near as practicable ~~at least equal~~ to the quotient obtained by dividing the ~~total civilian~~ population of the state by forty."

1        containing as nearly as practicable a relatively integrated socio-economic area.  
2        Each shall contain a population at least equal to the quotient obtained by dividing  
3        the total civilian population by forty. Consideration may be given to local  
4        government boundaries. Drainage and other geographic features shall be used  
5        in describing boundaries wherever possible.  
6

7        The Alaska Supreme Court addressed the meaning of the term “relatively  
8        integrated socio-economic area” with respect to election districts in *Hickel v.*  
9        *Southeast Conference*, 846 P.2d 38, 47 (Alaska 1992) (emphasis added):

10  
11        The Alaska Constitution requires districts comprising “relatively  
12        integrated” areas. . . . “Relatively” means that we compare  
13        proposed districts to other previously existing and proposed  
14        districts as well as principal alternative districts to determine if  
15        socio-economic links are sufficient. “Relatively” does not mean  
16        “minimally,” and it does not weaken the constitutional requirement  
17        of integration.  
18

19        The framers’ vision that the initial State election districts were, in many cases,  
20        models for future boroughs is reinforced by the fact that election district  
21        boundaries were used to define prospective boroughs in the 1963 Mandatory  
22        Borough Act. As introduced by Representative John L. Rader, the mandatory  
23        borough legislation called for the compulsory incorporation of the nine State  
24        election districts in Alaska that encompassed independent school districts.<sup>9</sup>  
25

26        The mandatory borough legislation was introduced just four years after Alaska’s  
27        constitution took effect. The short interval between those two seminal events, in  
28        the view of the Commission, is further evidence of a post-constitutional  
29        convention consensus on the general acceptability of the early election districts  
30        as models for borough boundaries. In that respect, it is also noteworthy that six  
31        of the twenty members (30%) of the 1963 Senate had been delegates to the

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<sup>9</sup> House Bill No. 90 provided that the areas would be incorporated as boroughs by legislative fiat if the voters in those regions failed to form boroughs before January 1, 1964. The nine regions were designated as follows in Section 3 of House Bill No. 90:

- (1) Anchorage Election District;
- (2) Lynn Canal – Icy Straits Election District;
- (3) Ketchikan – Prince of Wales Election District;
- (4) Kodiak Election District;
- (5) Palmer – Wasilla – Talkeetna Election District;
- (6) Sitka Election District;
- (7) Fairbanks – Fort Yukon Election District;
- (8) Juneau Election District; and
- (9) Kenai – Cook Inlet Election District.

1 Constitutional Convention.<sup>10</sup> Additionally, two members of the 1963 House of  
2 Representatives had been Constitutional Convention delegates.<sup>11</sup>

3  
4 Moreover, it is significant that the use of election districts to define borough  
5 boundaries in the 1963 mandatory borough legislation occurred just two years  
6 after the Alaska Legislature first adopted statutory standards for incorporation of  
7 boroughs. That fact becomes even more significant when it is recognized that 11  
8 of the 20 Senators (55%) and 23 of the 40 Representatives (57.5%) in the 1963  
9 Legislature had held the same elected offices during the 1961 Legislature.<sup>12</sup>

10  
11 While the early State election districts were viewed by the framers to be, in many  
12 cases, suitable borough models, the same is not necessarily true today. Social  
13 and economic integration remains a fundamental characteristic of election  
14 districts for the State of Alaska. However, subsequent social, political, and legal  
15 developments have had great influence over the size and configuration of  
16 election districts in Alaska. Social changes include a significantly greater  
17 concentration of Alaska's population in southcentral Alaska. Political changes  
18 include the uniform use of single-member election districts throughout Alaska.<sup>13</sup>  
19 They also include the enactment of legislation such as the Federal Voting Rights  
20 Act, which significantly influenced the configuration of election districts in Alaska.  
21 Lastly, judicial rulings have shaped election districts. For example, in *Hickel v.*  
22 *Southeast Conference*, *id.* at 62, the Alaska Supreme Court directed that certain  
23 factors be given priority in the drawing of house election districts:<sup>14</sup>

24  
25 Priority must be given first to the Federal Constitution, second to  
26 the federal voting rights act, and third to the requirements of article  
27 VI, section 6 of the Alaska Constitution. The requirements of article  
28 VI, section 6 shall receive priority inter se in the following order: (1)  
29 contiguousness and compactness, (2) relative socioeconomic

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<sup>10</sup> The former delegates in the 1963 Senate were Senators Coghill, Kilcher, McNealy, Nolan, Peratrovich, and Smith.

<sup>11</sup> The former delegates that were members of the 1963 House of Representatives were Representatives Sweeney and Taylor.

<sup>12</sup> The Senators were Bronson, Coghill, Hopson, McNealy, Nolan, Owen, Peratrovich, Brad Phillips, Vance Phillips, Smith, and Walsh. The Representatives were Baggen, Baker, Binkley, Blodgett, Boardman, Cashel, Christiansen, Ditman, Hammond, Harris, Jarvela, Kendall, Kubley, Leonard, Longworth, Parsons, Pearson, Reed, Sanders, Stalker, Strandberg, Sweeney, and Taylor.

<sup>13</sup> The initial election districts in the more populous areas of Alaska encompassed multiple House seats to retain their regional characteristics. Of the original 24 districts, five were two-member districts, one was a five-member district, and one was an eight-member district. The remaining seventeen districts were all single-member districts. The current plan utilizes forty single-member districts, which diminishes the regional character of those districts in the more populous areas.

<sup>14</sup> The Alaska Supreme Court adhered to the same priorities in *re 2001 Redistricting Cases*, 44 P.3d 141 (Alaska 2002).

1 integration, (3) consideration of local government boundaries, (4)  
2 use of drainage and other geographic features in describing  
3 boundaries.  
4

5 While it can no longer be said that election districts make for ideal borough  
6 boundaries in most cases, the original vision does provide a measure of the  
7 geographic scale within which boroughs were expected to exhibit a distinguishing  
8 degree of social, cultural, and economic integration.  
9

10 On January 20, 1956, delegate Vic Fischer expressed the view that it is  
11 'unimaginable' that a city would be the same size as a borough as reflected in the  
12 following exchange.<sup>15</sup>  
13

14 GRAY: Mr. Chairman, I would like to ask the Committee a question.  
15 Is it possible under Section 5 that the city council complete would  
16 also be complete in the assembly? Is it quite possible?  
17

18 V. FISCHER: I think that would be possible only if the borough was  
19 the same size as the city, or if the legislature provided that the  
20 people outside of the city shall have no representation.  
21

22 GRAY: It could be so?  
23

24 V. FISCHER: I could not imagine it happening.  
25

26 Article X, Section 2 allows but does not require city governments within  
27 boroughs. When harmonized, Sections 1 and 2 favor merger, consolidation, or  
28 unification of city and borough governments.<sup>16</sup>

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<sup>15</sup> The dialog was also relevant in terms of original Article X, Section 4 of Alaska's constitution which provided in relevant part that:

Each city of the first class, and each city of any other class designated by law, shall be represented on the assembly by one or more members of its council. The other members of the assembly shall be elected from and by the qualified voters resident outside such cities.

The provision was repealed in 1972.

<sup>16</sup> The Alaska Supreme Court holds that unification of local governments "is consistent with the purpose expressed in article X, section 1 of minimizing the number of local government units". *City of Douglas v. City and Borough of Juneau*, 484 P.2d 1040, 1044 (Alaska 1971). Unification is technically distinct from municipal consolidation and merger; however, all result in the reduction of the number of local governments. The Local Boundary Commission concluded with respect to municipal consolidation proposals in Haines (1998 and 2002), Fairbanks (2001), and Ketchikan (2001) that there is a preference in Article X, § 1 for the gradual elimination of cities within boroughs. The Commission noted further in those cases that the Committee on Local Government at the Constitutional Convention considered a borough encompassing no city governments to be the ideal structure of municipal government in Alaska. See *Statement of*

**Part 5. Article X, Section 12. Boundaries.**

Article X, Section 12 deals with borough standards in the sense that it provides that those standards will be applied by an independent commission with statewide jurisdiction based on statewide and regional considerations. The Specifically, Section 12 states:

**SECTION 12. BOUNDARIES.** A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action. .

Constitutional Convention delegates clearly intended the Local Boundary Commission to establish borough boundaries. When John Rosswog, Chairman of the Committee on Local Government, introduced Article X on the floor of the convention, he made the following remarks about Section 12:

The boundaries, we think, are quite an important question and should be under some agency which can establish them along the proper lines. They should not be left to the local community; they should be established by a higher authority.

*Proceedings of the Alaska Constitutional Convention*, Alaska State Legislature, Legislative Council p. 2612 (1963).

In the discussion of Article X, delegates repeatedly referred to the fact that a board or commission would establish borough boundaries. For example, as noted earlier, Delegate John Coghill made the following remarks during the discussion of Article X on the floor of the convention (emphasis added):

1 ... “Each borough shall embrace, to the maximum extent possible,  
2 an area and population with common interests.” My question here  
3 is directed to you to find out what the Committee's thinking was as  
4 to boundary areas of local government. Could you give us any light  
5 on that as to the extent? **I know that you have delegated the**  
6 **powers to a commission**, but you have said that each borough  
7 shall embrace the maximum extent possible.

8  
9 *Id.*, p. 2620-2621.

10  
11 Remarks by Delegate Davis offer the following example (emphasis added):

12  
13 ... I realize that under the article as it is written that **the boundaries**  
14 **of boroughs are going to be set by a board established by the**  
15 **legislature**.

16  
17 *Id.*, p. 2627.

18  
19 Of the 121 active State boards and commissions, only the Local Boundary  
20 Commission and four others have origins in the constitution.<sup>17</sup>

21  
22 The Alaska Supreme Court observed that the Commission was created to serve  
23 as an impartial body to review, from a statewide perspective, proposals relating  
24 to the establishment and alteration of municipal governments. Specifically, the  
25 Court stated:

26  
27 An examination of the relevant minutes of [the Local Government  
28 Committee of the Constitutional Convention] shows clearly the  
29 concept that was in mind when the local boundary commission  
30 section was being considered: that local political decisions do not  
31 usually create proper boundaries and that boundaries should be  
32 established at the state level. The advantage of the method  
33 proposed, in the words of the committee:

34  
35 . . . lies in placing the process at a level where area-wide  
36 or state-wide needs can be taken into account. By placing  
37 authority in this third party, arguments for and against  
38 boundary change can be analyzed objectively.

39  
40 *Fairview Public Utility District No. 1 v. City of Anchorage*, 368 P.2d 540, 543  
41 (Alaska 1962).

42  

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<sup>17</sup> The other four are the (legislative) Redistricting Board, Judicial Council, Commission on Judicial Conduct, and the University Board of Regents.

The Commission's central role in reviewing borough proposals is to ensure that boroughs are established at the State Level to reflect statewide considerations and regional criteria.

## **Part 6. Constitutional Provisions that Buttress the Fundamental Nature of Boroughs (Article X, Sections 5, 6, 7, and 13).**

Subpart (a) Article X, Section 5. Service Areas.

Subpart (b) Article X, Section 6. Unorganized Boroughs.

Subpart (c) Article X, Section 7. Cities.

Subpart (d) Article X, Section 13. Agreements; Transfer of Powers.

### **Subpart (a) Article X, Section 5. Service Areas.**

Section 5 of the Local Government Article deals with organized borough service areas. It states as follows:

**Section 5. Service Areas.** Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services.

While the principle purpose of Section 5 is, of course, to establish a framework for organized borough service areas; it also provides yet another indication of the intended difference in scale between cities and boroughs. Section 5 reflects the vision on the part of Constitutional Convention delegates that, as relatively large units of government, boroughs require the capability to establish service areas to meet varying needs of particular parts of the boroughs. There is no comparable constitutional provision for service areas within city governments.<sup>18</sup>

### **Subpart (b) Article X, Section 6. Unorganized Boroughs.**

Article X, Section 6 concerns unorganized boroughs. It is noteworthy in the context of constitutional principles relating to boroughs that Section 6 provides for

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<sup>18</sup> AS 29.45.580 authorizes city governments to establish differential property tax zones. It might be argued that, in certain respects, differential tax zones are the city equivalent to a borough service area. While both allow for the delivery of different levels of service, there is no constitutional recognition of a city differential tax zone. Thus, Article X, Section 5 is evidence of the intended large scale of boroughs by the Constitutional Convention delegates.



multiple unorganized boroughs, not the single residual unorganized borough that has existed since 1961.

Section 6 also provides for “maximum local participation and responsibility” in unorganized boroughs. Specifically, Article X, Section 6 states as follows:

**SECTION 6. UNORGANIZED BOROUGHES.** The legislature shall provide for the performance of services it deems necessary or advisable in unorganized boroughs, allowing for maximum local participation and responsibility. It may exercise any power or function in an unorganized borough which the assembly may exercise in an organized borough.

**Subpart (c) Article X, Section 7. Cities.**

Section 7, concerning city governments, provides as follows:

**SECTION 7. CITIES.** Cities shall be incorporated in a manner prescribed by law, and shall be a part of the borough in which they are located. Cities shall have the powers and functions conferred by law or charter. They may be merged, consolidated, classified, reclassified, or dissolved in the manner provided by law.

While the focus of Section 7 concerns the nature of city governments, it provides still another indicator of the framers’ vision regarding the relative scale of city and borough governments by stating that cities, “shall be part of the borough in which they are located.” That provision reinforces the perspective that boroughs are relatively large units compared to cities.

**Subpart (d) Article X, Section 13. Agreements; Transfer of Powers.**

Article X, Section 13 deals principally with the intergovernmental agreements and transfer of powers. It provides as follows:

**Section 13. Agreements; Transfer of Powers.** Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

In the context of the nature of borough government, Section 13 authorizes a city to transfer and revoke the transfer of city powers and functions to the borough in which it is located. There is no similar constitutional provision for transfer of borough powers and duties to cities. This asymmetry is consistent with the notion that boroughs would have broader jurisdiction than cities.

## **Section C. Statutory Standards for Borough Incorporation.**

Part 1. Background.

Part 2. AS 29.05.100. Decision.

Part 3. AS 29.05.031. Statutory Borough Standards.

### **Part 1. Background.**

In their 1971 study of State-local relations, Thomas A. Morehouse and Victor Fischer reflected that the statutory standards for borough incorporation were overly general. They stated:

On the question of defining the extent of the area to be served by a borough, the constitution is characteristically brief and general. It states that boroughs “shall be established ... according to standards *provided by law*.” (emphasis added) and that “the standards shall include population, geography, economy, transportation, and other factors. The Local Affairs Agency and the Boundary Commission did little to improve or elaborate this statement during their first two years of study and hearings, and the legislature yielded to an sanctioned this omission with the Borough Act of 1961. The “standards” provided by that act were, much like the constitution itself, at a very high level of generality.

*Borough Government in Alaska*, Thomas A. Morehouse and Victor Fischer, p. 79 (1971).

Two sections of the current Alaska Statutes provide standards for borough incorporation. Those are AS 29.05.100(a) and AS 29.05.031 which are addressed, respectively, in parts 2 and 3 of this section of the report..

### **Part 2. AS 29.05.100. Decision.**

AS 29.05.100(a) of the Alaska Statutes provides that the Local Boundary Commission may approve a borough incorporation petition (with or without amendments and conditions) only if it

1. meets all applicable constitutional standards;
2. meets all applicable standards established in regulations adopted by the Local Boundary Commission;
3. meets all standards in AS 29.05.031, and
4. is in the best interests of the state.

In full, AS 29.05.100(a) provides as follows:

**Sec. 29.05.100. Decision.** (a) The Local Boundary Commission may amend the petition and may impose conditions on the incorporation. If the commission determines that the incorporation, as amended or conditioned if appropriate, meets applicable standards under the state constitution and commission regulations, meets the standards for incorporation under AS 29.05.011 or 29.05.031, and is in the best interests of the state, it may accept the petition. Otherwise it shall reject the petition.

### **Part 3. AS 29.05.031. Statutory Borough Standards.**

In addition to the above, AS 29.05.031 of the Alaska Statutes provides what amounts to six standards for boroughs. Specifically, it requires that a region may incorporate as a borough only if

1. its population is socially, culturally, and economically interrelated and integrated;
2. its population is large and stable enough to support borough government;
3. the proposed borough boundaries conform generally to natural geography
4. the proposed borough boundaries include all areas necessary for full development of municipal services;
5. its economy of the area includes the resources capable of providing municipal services;
6. land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

Like the statutory borough standards first enacted in 1962, the current statutory standards remain very broad. For example, while AS 29.05.031 stipulates that the population of a borough must be “large enough” to support borough government, it provides no specific numerical population standard for boroughs. The other statutory standards are similarly general. In full, AS 29.05.031 states as follows:

**Sec. 29.05.031. Incorporation of a borough or unified municipality.**

(a) An area that meets the following standards may incorporate as a home rule, first class, or second class borough, or as a unified municipality:

(1) the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;

(2) the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas necessary for full development of municipal services;

(3) the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;

(4) land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.

(b) An area may not incorporate as a third class borough.

The original 1962 statutory standards for borough incorporation used the term “area” several times. As reflected above, the same key word appears six times in the current standards. “Area”, of course, is also a fundamental term used in Article X, Section 3 of our constitution (i.e., “[e]ach borough shall embrace an **area** and population with common interests to the maximum degree possible”. The Commission ascribes significance to the fact that the term “area” is used both in Article X, Section 3 of the constitution and the statutory standards regarding borough.

In terms of the distinction between borough governments and city governments addressed in this chapter in Section B, Part 4 (regarding Article X, Section 2. Local Government Powers) it is also noteworthy that the statutory standards for city incorporation in place in 1962 used the terms “community”, “neighborhood”, “district”, or “village”.<sup>19</sup> Thus, from the beginning, a distinction between

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<sup>19</sup> Former AS 29.10.006 authorized “a community having 400 or more permanent inhabitants” to incorporate a first class city. Former AS 29.15.010 authorized “a community having at least 50 permanent inhabitants” to form a second class city. Former AS 29.20.010 authorized “The permanent inhabitants and the real property owners of a neighborhood or district, not exceeding

community-based governments (cities) and regional governments (boroughs) has been evident in the statutory incorporation standards.<sup>20</sup>

The parallel usage by the legislature of the term “area” for borough government and the term “community” (or similar expression) for city government gives force to the argument that the legislature purposely adopted the word “area” to refer to borough jurisdictions. Thus, AS 29.05.031 is viewed as legislative implementation of the previously addressed constitutional concept of boroughs embracing the large, natural regions.

The Alaska Supreme Court noted that the general nature of the statutory standards is an indication that the legislature intended those standard to be flexibly applied – but still in a “regional” context. In the same case, the Court recognized the diversity of Alaska and the need for broad policy discretion by the Local Boundary Commission when considering borough proposals.

The [statutory standards] were intended to be flexibly applied to a wide range of regional conditions. This is evident from such terms as “large enough”, “stable enough”, “conform generally”, “all areas necessary and proper”, “necessary or desirable”, “adequate level” and the like. The borough concept was incorporated into our constitution in the belief that one unit of local government could be successfully adopted to both urban and sparsely populated areas of Alaska, and the Local Boundary Commission has been given a broad power to decide in the unique circumstances presented by each petition whether borough government is appropriate.

*Mobil Oil v. Local Boundary Commission*, 518 P.2d 92, 98-99 (Alaska 1974).

## **Section D. Alaska Administrative Code Standards for Borough Incorporation.**

### **Part 1. Background.**

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50 square miles in area” to for a city of the third class. Former AS 29.25.030 authorized “A village that (1) is not included in, or part of, or within 10 miles of an incorporated city, or within five miles of an independent school district, and (2) has at least 25 permanent inhabitants 19 years of age or older residing within a radius of three miles of a designated centrally located point or structure” to incorporate a village.

<sup>20</sup> As discussed above and in Section B, Part 4 of this chapter former and current statutory standards for city incorporation clearly imply a more limited territorial jurisdiction than the standards for borough incorporation (e.g., the requirement for 400 residents, no requirement for conformity with natural geography, no standard dealing with interrelation/integration as to social, cultural, and economic activities). Also, regulatory standards in 3 AAC 110.040(b)-(c) and 3 AAC 110.130(c)-(d) provide that city boundaries must include only territory comprising present and near future local community, and must not include entire geographical regions or large unpopulated areas.

- 1 Part 2. 3 AAC 110.045. Community of Interests.
- 2 Part 3. 3 AAC 110.050. Population.
- 3 Part 4. 3 AAC 110.055. Resources.
- 4 Part 5. 3 AAC 110.060. Boundaries.
- 5 Part 6. 3 AAC 110.065. Best Interests of State.
- 6 Part 7. 3 AAC 110.900-910. Transition & Non-Discrimination.

## 9 **Part 1. Background.**

10  
11 It is important to recognize that the previously noted 1974 ruling in *Mobil Oil* was  
12 rendered before the Commission had adopted regulatory standards for borough  
13 incorporation. Thus, the conclusion reached in *Mobil Oil* that the general  
14 statutory standards of AS 29.05.031 were intended to be flexibly applied to  
15 borough incorporation occurred in that backdrop. It would be incorrect to infer  
16 from *Mobil Oil* that the Legislature never intended the Commission to adopt  
17 specific standards governing borough incorporation.

18  
19 Indeed, in 1959, the Legislature enacted a law requiring the Local Boundary  
20 Commission to “develop proposed standards and procedures for changing local  
21 boundary lines.” Sec 7, Ch. 64, SLA 1959. The phrase “changing local  
22 boundary lines” has been broadly interpreted to include borough incorporations.

23  
24 For example, on February 15, 1991, Assistant State Attorney General Marjorie  
25 Odland addressed the point in a memorandum of opinion in the matter involving  
26 the proposed incorporation of the City and Borough of Yakutat. Assistant  
27 Attorney General Odland stated, “In our view ‘changing local boundary lines’  
28 includes not only annexation or detachment proceedings but also incorporation  
29 proceedings.” Ms. Odland’s opinion on that point was tested shortly thereafter  
30 when the Yakutat petitioners challenged the Commission’s reliance on “non-  
31 statutory” standards in rendering its decision. The Alaska Supreme Court ruled  
32 as follows:

33  
34       Petitioners lastly argue that, even if the LBC’s decision were construed as  
35 determining that the originally proposed borough boundaries failed to meet the  
36 statutory standards for incorporation, the LBC based its decision on non-statutory  
37 criteria and therefore erred. ... Petitioners’ arguments, however, reflect the  
38 mistaken premise that the LBC must approve any minimally acceptable petition  
39 for incorporation and has only limited authority to consider or adopt “the most  
40 desirable” borough boundaries. Given the Alaska Constitution’s mandate that  
41 boroughs be cohesive “to the maximum degree possible,”<sup>21</sup> the LBC acted well  
42 within the purview of its authority in considering the desirability of future  
43 incorporation of neighboring areas such as Prince William Sound and the

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<sup>21</sup> Alaska Const., art. X, § 3.

1 interests of affected land owners and users such as the Chugach Alaska  
2 Corporation.<sup>22</sup> We find no merit to Petitioners' claim of improper reliance on  
3 non-statutory criteria.  
4

5 *Petitioners for Incorporation of City and Borough of Yakutat v. Local Boundary*  
6 *Commission*, 900 P.2d 721, 727 (Alaska 1995).  
7

8 Any ambiguity over legislative intent regarding the adoption of regulatory  
9 standards was eliminated while the Yakutat decision was pending appeal. In  
10 1994, the Legislature rewrote the law to require the Commission to specifically  
11 **“adopt regulations providing standards and procedures for municipal**  
12 **incorporation**, annexation, detachment, merger, consolidation, reclassification,  
13 and dissolution.” (emphasis added)  
14

15 Further, in 1999, the Legislature amended AS 29.05.100 to expressly require  
16 satisfaction of the borough incorporation standards adopted by the Commission  
17 in regulation as a condition for approval of a petition.  
18

19 In *Port Valdez*, the Supreme Court held that there were three fundamental  
20 reasons for the legislative directive for the Commission to adopt standards.  
21

22 We see three purposes underlying the statutory requirement of  
23 annexation standards. First, such standards expose the basic  
24 decision-making processes of the commission to public view and  
25 thus subject commission action to broad corrective legislation.<sup>23</sup>  
26 Second, the standards guide local governments in making  
27 annexation decisions and in preparing proposals for the  
28 commission. Frustration of these purposes cannot harm the  
29 opponent of annexation. Third, annexation standards objectify the

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<sup>22</sup> In their reply brief, Petitioners challenge the authority of the LBC to promulgate regulations such as 19 AAC 10.060(a)(1), which expressly authorized the LBC to consider “land use and ownership patterns” in determining compliance with the statutory standards set out in AS 29.05.031(a). See, e.g., *Warner v. State*, 819 P.2d 28, 32 n. 3 (Alaska 1991); *State v. Anderson*, 749 P.2d 1342, 1345 (Alaska 1988). We need not decide the issue, since even in the absence of the challenged regulations, the LBC clearly had authority to consider information and arguments such as those presented by the Chugach Alaska Corporation in addressing the statutory standards articulated in AS 29.05.031(a). In particular, we note that AS 29.05.031(a)(1) gives the LBC power to consider whether “the population of the area [included in the proposed borough] is interrelated and integrated as to its social, cultural, and economic activities.”

<sup>23</sup> Our Nome opinion focused upon the commission’s failure to heed the legislature’s commands in exercising the commission’s jurisdiction and publicly accounting for its decisional process:

To (hold) otherwise would be to condone the commission’s nonobservance of a valid legislative prerequisite to the exercise of the commission’s discretion in matters of local boundary changes.

*United States Smelting, Refining & Mining Co. v. Local Boundary Commission*, 489 P.2d at 142.

criteria of decision-making and delineate the battleground for a public hearing,<sup>24</sup>

*Port Valdez Company, Inc., v. City of Valdez*, 522 P.2d 1147, (Alaska 1974).

The Commission has adopted standards specifically relating to borough incorporation in five sections of the Alaska Administrative Code. Those sections consist of the following:

1. 3 AAC 110.045. Community of Interests;
2. 3 AAC 110.050. Population;
3. 3 AAC 110.055. Resources;
4. 3 AAC 110.060. Boundaries; and
5. 3 AAC 110.065. Best Interests of State.

In addition, the Commission has adopted standards applicable to borough incorporations and all other proposals that come before the Commission. Those consist of the following sections:

1. 3 AAC 110.900. Transition;
2. 3 AAC 110.910. Statement of Non-Discrimination.

The Commission's standards for borough incorporation have remained largely unchanged for more than a decade. In contrast to the constitutional and statutory standards, the standards in the Alaska Administrative Code are more specific. Each of the Alaska Administrative Code standards applicable to boroughs is examined in the order listed above.

## **Part 2. 3 AAC 110.045. Community of Interests.**<sup>25</sup>

<sup>24</sup> See *Mukluk Freight Lines, Inc. v. Nabors Alaska Drilling, Inc.*, 516 P.2d 408, 415 n. 23 (Alaska 1973).

<sup>25</sup> The term "community of interests" as used in the title has no relation to the term "community" as defined by 3 AAC 110.990(5) and as determined under 3 AAC 110.920. Rather "community of interests" relates to the common interests throughout a region. The concept is explained in the following:

In reviewing a borough petition, the Local Affairs Agency investigates to determine whether the proposed borough is a "natural community" and exhibits a "community of interests." In discussing the concept of "natural community," the Agency has indicated that:

When it is stated that organized boroughs are local governments for natural communities, it does not mean that they are local governments for the limited community of the city, or the suburb, or of a group of farms or homesteads. It means that they are local governments for an entire natural community made up of a combination of cities, suburbs, and groups of farms..."



- 1 Subpart (a). Social, Cultural, and Economic Ties.
- 2 Subpart (b). Presumption of Multiple Communities.
- 3 Subpart (c). Communications and Exchange.
- 4 Subpart (d). Presumption Relating to Transportation and communication Ties.

5  
6 The “Community of Interests” provisions in 3 AAC 110.045 consist of four  
7 subsections, (a) – (d), each of which sets out a distinct borough standard dealing  
8 with regional links. The four subsections relate to the following:

- 9 1. social, cultural, and economic integration and interrelation generally;
- 10 2. presumption of multiple communities;
- 11 3. requirement for adequate communications and exchange; and
- 12 4. presumption that communities are connected by road, flights, ferry  
13 service, or electronic communications.

14  
15 Each of these four subsections are addressed below.

16  
17 **Subpart (a). Social, Cultural, and Economic Ties.**

18  
19 3 AAC 110.045(a) was adopted to further interpret and implement the  
20 fundamental characteristic of boroughs as set forth by constitutional and statutory  
21 provisions calling for boroughs to encompass an area and population with  
22 common interests.

23  
24 The opening provisions of subsection (a) of 3 AAC 110.045 essentially mirror the  
25 constitutional and statutory provisions. However, in addition, 3 AAC 110.045(a)  
26 lists four factors that the Commission may consider (if determined to be relevant)  
27 in applying the standard. Specifically, 3 AAC 110.045(a) states as follows:

- 28  
29 (a) The social, cultural, and economic characteristics and  
30 activities of the people in a proposed borough must be  
31 interrelated and integrated. In this regard, the commission  
32 may consider relevant factors, including the  
33 (1) compatibility of urban and rural areas within  
34 the proposed borough;

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In rejecting a 1,400 square mile borough proposal encompassing Homer, Ninilchik, and Anchor Point in 1963, the Local Boundary Commission stated:

The Commission, however, believes that a large number of boroughs, spread among a limited number of taxpayers, would not only violate the concept of natural community, but would be cumbersome and necessarily costly. Chapter 52, SLA 1963 (CSHB #90), and the proposed boroughs designated therein, causes the Commission to believe the Legislature shares in this view.

*Id.*, p. 62.

- (2) compatibility of economic lifestyles, and industrial or commercial activities;
- (3) existence throughout the proposed borough of customary and simple transportation and communication patterns; and
- (4) extent and accommodation of spoken language differences throughout the proposed borough.

Moreover, 3 AAC 110.045(a) allows the Commission to consider other relevant factors in judging social, cultural, and economic interrelation and integration. In the most recent borough incorporation proceeding, the Commission considered ten factors in addition to those listed in 3 AAC 110.045(a). Those consisted of the following:

1. marine transportation, air transportation,
2. common major economic activity,
3. shared fishing areas,
4. common interest in management of State lands,
5. racial composition of the populace,
6. historical links,
7. geographic proximity,
8. dependence on a community for transportation, entertainment, news and professional services,
9. geographical similarities, and
10. historical economic links.

The Alaska Supreme Court recognizes those ten factors to be relevant in judging regional socio-economic interrelationships in the context of State election districts. *Hickel v. Southeast Conference*, 846 P.2d 38, 46-47 (Alaska 1992).

As noted previously, Alaska's initial State election districts were viewed by the Constitutional Convention delegates to be, in many cases, suitable borough models. While changes over the nearly five decades that have passed since Alaska's constitution was written have, in some cases, rendered election districts less suitable as boroughs, social and economic integration remains a fundamental characteristic of election districts for the State of Alaska.

In the recent application of the ten factors above, the Commission adopted the view that judgments concerning borough formation warranted a similar approach to that outlined by the Court with respect to election districts. To paraphrase the Court, in terms of borough formation, comparisons should be made between a proposed borough to other existing and proposed boroughs as well as principal alternative boroughs to determine if socio-economic links are sufficient.

**Subpart (b). Presumption of Multiple Communities.**

3 AAC 110.045(b) establishes a presumption that each borough will include multiple communities. The presumption can be overcome by a compelling demonstration that a single community borough otherwise meets the standards for borough government.

The multiple-community standard reflects the fact that boroughs are regional governments and that regions typically encompass more than one community.

Moreover, the requirement for multiple communities is consistent with the minimum of local government units clause found in Article X, Section 1 of the constitution. If single-community boroughs are formed, the result would be a proliferation of boroughs rather than a constriction on their formation.

In full, 3 AAC 110.045(b) states as follows:

**3 AAC 110.045 (b).** Absent a specific and persuasive showing to the contrary, the commission will presume that a sufficient level of interrelationship cannot exist unless there are at least two communities in the proposed borough.

The Commission's regulations (at 3 AAC 110.990(5)) define a community to be "a social unit comprised of 25 or more permanent residents as determined under 3 AAC 110.920." 3 AAC 110.920 provides the following guidelines for determining whether a community exists:

**3 AAC 110.920. DETERMINATION OF COMMUNITY**

(a) In determining whether a settlement comprises a community, the commission may consider relevant factors, including whether the

(1) settlement is inhabited by at least 25 individuals;

(2) inhabitants reside permanently in a close geographical proximity that allows frequent personal contacts and comprise a population density that is characteristic of neighborhood living; and

(3) inhabitants residing permanently at a location are a discrete and identifiable social unit, as indicated by such factors as school enrollment, number of sources of employment, voter registration, precinct boundaries, permanency of dwelling units, and the number of commercial establishments and other service centers.

(b) Absent a specific and persuasive showing to the contrary, the commission will presume that a population does not constitute a community if

(1) public access to or the right to reside at the location of the population is restricted;

(2) the population is adjacent to a community and is dependent upon that community for its existence; or

(3) the location of the population is provided by an employer and is occupied as a condition of employment primarily by persons who do not consider the place to be their permanent residence.

**Subpart (c). Communications and Exchange.**

3 AAC 110.045(c) requires that facilities must allow communication and exchange necessary for effective governance on a regional scale. In judging the satisfaction of the standard, 3 AAC 110.045(c) provides that the Commission may consider frequency of service, expense of travel, impediments to communication and travel, and availability of electronic media.

In full, 3 AAC 110.045(c) provides as follows:

(c) The communications media and the land, water, and air transportation facilities throughout the proposed borough must allow for the level of communications and exchange necessary to develop an integrated borough government. In this regard, the commission may consider relevant factors, including

(1) transportation schedules and costs;

(2) geographical and climatic impediments;

(3) telephonic and teleconferencing facilities;

and

(4) electronic media for use by the public.

**Subpart (d). Presumption Relating to Transportation and Communication Ties.**

3 AAC 110.045(d) establishes a presumption of minimum requirements for the suitability of transportation and communication facilities. It presumes that communities within a prospective borough are connected to the proposed borough seat by at least one of the following:

1. public roadway,

2. regular scheduled airline flights on at least a weekly basis,

3. regular ferry service on at least a weekly basis,
4. charter flight service based in the proposed borough, or
5. sufficient electronic media communications.

In full, the standard provides as follows:

**3 AAC 110.045(d).** Absent a specific and persuasive showing to the contrary, the commission will presume that communications and exchange patterns are insufficient unless all communities within a proposed borough are connected to the seat of the proposed borough by a public roadway, regular scheduled airline flights on at least a weekly basis, regular ferry service on at least a weekly basis, a charter flight service based in the proposed borough, or sufficient electronic media communications.

**Part 3. 3 AAC 110.050. Population.**

Subpart (a). Factors Relating to Population Size and Stability.

Subpart (b). Presumption of a 1,000 Minimum Population.

The “population” provisions in 3 AAC 110.050 consist of two subsections, (a) – (b). The first echoes statutory requirements for a large and stable population; it also lists particular measures that the Commission may use to evaluate the size and stability of the population. The second subsection establishes a presumptive standard that each borough will have at least 1,000 residents.

These standards are addressed below.

**Subpart (a). Factors Relating to Population Size and Stability.**

The standard in 3 AAC 110.050(a) ostensibly calls for a review of population characteristics in the context of a particular borough proposal. However, that standard must be interpreted and applied in the context of its statutory and constitutional basis. In other words, if the particular borough proposal does not exhibit the essential characteristics of a borough, its population – no matter how large or stable – cannot satisfy the standard.

3 AAC 110.050(a) sets out five factors that the Local Boundary Commission may consider regarding the size and stability of a borough. However, if other factors are relevant, the Commission may consider those as well. 3 AAC 110.050(a) states as follows:

The population of a proposed borough must be sufficiently large and stable to support the proposed borough

government. In this regard, the commission may consider relevant factors, including

- (1) total census enumerations;
- (2) durations of residency;
- (3) historical population patterns;
- (4) seasonal population changes; and
- (5) age distributions.

**Subpart (b). Presumption of a 1,000 Minimum Population.**

3 AAC 110.050(b) establishes a presumption that each borough will have at least 1,000 residents. It reads as follows:

Absent a specific and persuasive showing to the contrary, the commission will presume that the population is not large enough and stable enough to support the proposed borough government unless at least 1,000 permanent residents live in the proposed borough.

The 1,000 person minimum population standard has a basis in statutory law regarding the formation of new school districts. AS 14.12.025 prohibits the creation of a new school district if that new district would have fewer than 250 students. An exception can be granted only if it is demonstrated to the Commissioner of Education that there is a broad public interest in forming a smaller district. Specifically, the law states as follows:

**Sec. 14.12.025. New school districts.** Notwithstanding any other provision of law, a new school district may not be formed if the total number of pupils for the proposed school district is less than 250 unless the commissioner of education and early development determines that formation of a new school district with less than 250 pupils would be in the best interest of the state and the proposed school district.

1 Generally, the student population in Alaska comprises about one-fifth (20%) of  
2 the total population. Thus, to meet the standard set out in AS 14.12.025, a  
3 proposed new district would have to have roughly at least 1,250 residents. Any  
4 time a borough is formed, it creates a new school district.<sup>26</sup> Thus, the de facto  
5 standard set out in AS 14.12.025 has a significantly higher threshold than the  
6 standard set out in 3 AAC 110.050(b)

7  
8 **Part 4. 3 AAC 110.055. Resources.**  
9

10 The economy of a proposed borough must include the  
11 human and financial resources necessary to provide  
12 essential borough services on an efficient, cost-effective  
13 level. In this regard, the commission

14 (1) will consider

15 (A) the reasonably anticipated functions of the  
16 proposed borough;

17 (B) the reasonably anticipated expenses of the  
18 proposed borough;

19 (C) the ability of the proposed borough to  
20 generate and collect local revenue, and the reasonably  
21 anticipated income of the proposed borough;

22 (D) the feasibility and plausibility of the  
23 anticipated operating and capital budgets through the third  
24 full fiscal year of operation;

25 (E) the economic base of the proposed  
26 borough;

27 (F) property valuations for the proposed  
28 borough;

29 (G) land use for the proposed borough;

30 (H) existing and reasonably anticipated  
31 industrial, commercial, and resource development for the  
32 proposed borough; and

33 (I) personal income of residents of the  
34 proposed borough; and

35 (2) may consider other relevant factors, including

36 (A) the need for and availability of employable  
37 skilled and unskilled persons to serve the proposed borough;  
38 and

39 (B) a reasonably predictable level of  
40 commitment and interest of the population in sustaining a  
41 borough government.  
42

---

<sup>26</sup> AS 14.12.010(2) provides that “each organized borough is a borough school district.”

**3 AAC 110.970. DETERMINATION OF ESSENTIAL CITY  
OR BOROUGH SERVICES**

(a) If a provision of this chapter provides for the identification of essential borough services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the territory;  
and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

(B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

(b) The commission may determine essential borough services to include

(1) assessing and collecting taxes;

(2) providing primary and secondary education;

(3) planning, platting, and land use regulation;

and

(4) other services that the commission considers reasonably necessary to meet the borough governmental needs of the territory.

(c) If a provision of this chapter provides for the identification of essential city services, the commission will determine those services to consist of those mandatory and discretionary powers and facilities that, as determined by the commission,

(1) are reasonably necessary to the community; and

(2) cannot be provided more efficiently and more effectively

(A) through some other agency, political subdivision of the state, regional educational attendance area, or coastal resource service area; or

(B) by the creation or modification of some other political subdivision of the state, regional educational attendance area, or coastal resource service area.

(d) The commission may determine essential city services to include

(1) levying taxes;



- (2) for a city in the unorganized borough,  
assessing and collecting taxes;
- (3) for a first class or home rule city in the  
unorganized borough, providing primary and secondary  
education in the city;
- (4) public safety protection;
- (5) planning, platting, and land use regulation;
- and
- (6) other services that the commission  
considers reasonably necessary to meet the local  
governmental needs of the community.

Boroughs must have resources to operate efficiently and effectively. This standard offers specific factors that the Commission must consider and others that it may consider in judging whether the area has ample resources.

#### **Part 5. 3 AAC 110.060. Boundaries.**

##### **Subpart (a). Conformance with Natural Geography and Efficient Jurisdictional Area.**

- (a) The boundaries of a proposed borough must conform generally to natural geography, and must include all land and water necessary to provide the full development of essential borough services on an efficient, cost-effective level. In this regard, the commission may consider relevant factors, including
- (1) land use and ownership patterns;
  - (2) ethnicity and cultures;
  - (3) population density patterns;
  - (4) existing and reasonably anticipated  
transportation patterns and facilities;
  - (5) natural geographical features and  
environmental factors; and
  - (6) extraterritorial powers of boroughs.

Proper application of the natural geography standard involves more than a simple determination whether the boundaries of a proposed borough merely follow, in some general fashion, *any* identifiable natural geographical features. The appropriate interpretation of the standard is whether the a borough proposal conforms generally to natural geography *on the scale intended for a borough government*. The broader interpretation reflects that the constitutional

1 convention delegates intended boroughs to encompass large geographic areas.  
2 The geography standard set out in AS 29.05.031(a)(2) and 3 AAC 110.060(a)  
3 warrants a broad application is buttressed when considered in the context of the  
4 closely related standards.

5  
6 **Subpart (b). Presumption Favoring Model Borough Boundaries.**  
7

8 3 AAC 110.060(b) provides for consideration of “model borough boundaries” by  
9 the Commission in reviewing the suitability of any borough incorporation  
10 proposal. Specifically, it states:

11  
12 **3 AAC 110.060(b).** Absent a specific and persuasive  
13 showing to the contrary, the commission will not approve a  
14 proposed borough with boundaries extending beyond any  
15 model borough boundaries.  
16

17 In a narrow sense, the standard allows any boundary proposal that does not  
18 exceed the model borders. However, in a broader sense, the standard at issue  
19 concerns the fundamental relationship between the boundaries of a proposed  
20 borough and its respective model.

21 In past borough incorporation and annexation proceedings, the Commission has  
22 considered this standard in that broad context. For example, in 1998, the  
23 Ketchikan Gateway Borough petitioned the Local Boundary Commission to  
24 annex all but 21.4 square miles of the territory within its model borough  
25 boundaries. The exclusion of the 21.4 square miles would have rendered Hyder  
26 an enclave consisting of 17.9 square miles inhabited by 151 residents.  
27 Additionally, Meyers Chuck would have become a near-enclave of 3.5 square  
28 miles in which 28 individuals lived. The Commission viewed the two exclusions  
29 as problematic and invited the Borough to amend its petition to include those  
30 areas. After the Borough declined to do so, the Commission denied its petition.  
31 In doing so, the Commission noted as follows:

32 The effect and significance of the failure of a borough proposal to  
33 conform to its model boundaries must be judged in the unique  
34 circumstances presented by each petition. . . .  
35

36 The Commission believes that some deference is owed to the  
37 model borough boundaries beyond that called for in a narrow  
38 interpretation of 19 AAC 10.190(c).<sup>27</sup>  
39

40 . . . the Borough’s model boundaries also reflect the application of  
41 all borough boundary standards and relevant constitutional

---

<sup>27</sup> Since renumbered as 3 AAC 119.190(c).

1 principles to the pertinent facts in the Borough's circumstances. In  
2 the record, there is insufficient justification for deviation from those  
3 model boundaries here.

4  
5 *Statement of Decision in the Matter of the February 28, 1998 Petition of the*  
6 *Ketchikan Gateway Borough for Annexation of 5,524 Square Miles*, Local  
7 Boundary Commission, page 7 (April 16, 1999).

8  
9 The Local Boundary Commission defined model borough boundaries for  
10 unorganized areas of Alaska from 1990 through 1992 using the constitutional,  
11 statutory, and regulatory standards for the creation of boroughs.

12  
13 During the three-year effort, the Commission concluded that, in many instances,  
14 the boundaries of REAAs were also model boundaries for future boroughs.  
15 REAAs are regional governmental institutions established more than a quarter  
16 century ago for the efficient and effective delivery of services. REAAs have a  
17 single function – education. It is significant that education is also one of the few  
18 mandatory duties of boroughs and is their greatest responsibility as measured by  
19 expenditures.

20  
21 Statutory standards for REAAs set out in AS 14.08.031 are very similar to those  
22 for boroughs. When REAAs were created in 1975, they were widely perceived  
23 as forerunners to organized boroughs. As described in detail in Subpart (c) of this  
24 section of the report, REAA boundaries have strong parallels to borough  
25 boundaries. The historical record demonstrates the fundamental relevance of  
26 REAAs in terms of establishing boundaries of boroughs.

27  
28 The Commission used model borough boundaries (and other factors) in this  
29 review of the unorganized borough.

30  
31 As noted earlier, Alaska's constitution requires the division of the entire state into  
32 organized and/or unorganized boroughs. The division must occur according to  
33 standards including population, geography, economy, transportation, and other  
34 factors. Each organized and unorganized borough must embrace an area and  
35 population with common interests. (Article X, Section 3) The constitution also  
36 favors a minimum number of boroughs. (Article X, Section 1)

37  
38 The Borough Act of 1961 created a single unorganized borough encompassing  
39 all of Alaska not within an organized borough.<sup>28</sup> Since there were no organized  
40 boroughs at that time, the entire state was initially configured as a single  
41 unorganized borough.

42  

---

<sup>28</sup> Ch 146, SLA 1961.

1 “Dividing” the entire state into a single borough brushed aside the constitutional  
2 requirement that each borough embrace an area of common interests. Alaska,  
3 of course, has tremendous diversity with respect to social, cultural, economic,  
4 transportation, geographic, and other relevant characteristics.  
5

6 Today, more than four decades after the Borough Act of 1961, the single residual  
7 unorganized borough encompasses an estimated 374,843 square miles – 57% of  
8 Alaska. The unorganized borough is larger than the countries of France and  
9 Germany combined.

10  
11 As currently configured, the unorganized borough ranges in a non-contiguous  
12 fashion from the southernmost tip of Alaska to an area approximately 150 miles  
13 above the Arctic Circle. It also extends in a non-contiguous manner from the  
14 easternmost point in Alaska (at Hyder) to the westernmost point in Alaska at the  
15 tip of the Aleutian Islands. The unorg

Insert map showing the unorganized borough

- 16
- 17 ➤ portions of each of Alaska’s 4 judicial districts;
- 18 ➤ 11 entire census districts;
- 19 ➤ all or portions of 10 State House electoral districts;
- 20 ➤ all or portions of 6 State Senate electoral districts;
- 21 ➤ 19 entire regional educational attendance areas;
- 22 ➤ all or portions of 10 of Alaska’s 12 Native Village areas under the  
23 ANCSA;
- 24 ➤ 19 entire model boroughs; and
- 25 ➤ model borough territory for 5 existing organized boroughs.
- 26

27 Clearly, the unorganized borough remains a vast area with extremely diverse  
28 interests rather than common interests as required by the constitution. This is  
29 particularly evident from the fact that the unorganized borough spans so many  
30 election districts, census districts, regional educational attendance areas,  
31 regional Native corporations, and model borough boundaries.  
32

33 In the late 1980s, the Local Boundary Commission received a number of  
34 competing proposals to annex and incorporate various portions of the  
35 unorganized borough.<sup>29</sup> The Commission concluded that it would be best to

---

<sup>29</sup> In October of 1988, the Kodiak Island Borough petitioned to annex an estimated 12,825 square miles (including submerged land and water beyond the State’s jurisdictional limits). That prompted residents of the Alaska Peninsula to file a competing petition for the incorporation of the Lake and Peninsula Borough. The proposed Lake and Peninsula Borough contained an estimated 16,675 square miles, including much of the territory proposed for annexation to the Kodiak Island Borough. In May of 1989, the Fairbanks North Star Borough petitioned to annex 216 square miles. Annexation was widely opposed by residents of the adjacent unorganized area. The Fairbanks annexation petition prompted the adjacent region to conduct a study of the feasibility of forming a borough; however, no competing petition was filed. In June of 1989, the City and Borough of Juneau petitioned to annex 140 square miles. Again, while the annexation



1 examine those and future borough proposals in the context of model boundaries  
2 based on constitutional, statutory, and regulatory standards for borough  
3 incorporation.

4  
5 Consequently, the Commission initiated the effort to define model borough  
6 boundaries in 1990. The project was completed at the end of 1992. The Alaska  
7 Legislature appropriated funding for the project. The Local Boundary  
8 Commission conducted hearings regarding model borough boundaries in person  
9 or by teleconference in 88 communities.

10  
**Approximately three-quarters of unorganized borough residents live within model boroughs that are identical (or nearly so) to their respective REAAs**

**(i). Eight model boroughs conform precisely to REAAs.**

Eight model boroughs have boundaries that correspond precisely to individual regional educational attendance areas (REAAs) as listed below.

1. The Annette Island Model Borough boundaries are identical to those of the Annette Island REAA;
2. The Bering Strait Model Borough boundaries are identical to those of the Bering Strait REAA (including the City of Nome);
3. The Copper River Model Borough boundaries are identical to those of the Copper River REAA;
4. The Dillingham-Nushagak-Togiak Model Borough boundaries are identical to those of the Southwest Region REAA (including the City of Dillingham);
5. The Iditarod Model Borough boundaries are identical to those of the Iditarod REAA;
6. The Kuspuk Model Borough boundaries are identical to those of the Kuspuk REAA;

Insert map highlighting the 8 REAAs listed

proposal was opposed by inhabitants of the  
filed. In June of 1989, the Matanuska-Susitna Borough filed a petition for a  
square miles to and including Healy. In October, the Matanuska-Susitna Borough  
Educational Attendance Area filed a competing petition for a different boundary.  
The boundaries of the proposed Denali Borough and the proposed Matanuska-Susitna  
including much of the territory proposed for the Denali Borough. In the same  
same month, another group of residents filed a petition for a different boundary.  
Valleys Borough. The Valleys Borough proposal included much of the proposed Denali Borough.

- 1 7. The Pribilof Islands Model Borough boundaries are identical to those of the
- 2 Pribilof Islands REAA;
- 3 8. The Prince William Sound Model Borough boundaries are identical to those of
- 4 the Chugach REAA (including the City of Cordova and the City of Valdez).
- 5

6 The eight model boroughs listed above have a combined estimated population of

7 29,679. That figure represents approximately 36.3% of the total population of the

8 unorganized borough.

9

10 **(ii). Two additional model boroughs conform to REAAs except that they**

11 **also include tiny enclave federal transfer REAAs**

12

13 There are currently nineteen REAAs in Alaska. Only seventeen of those were

14 created in 1975 according to regional standards in AS 14.08.031. The remaining

15 two REAAs – Kashunamiut and Yupiit – were established according to an act of

16 the Legislature (Chapter 66, SLA 1985).

17

18 The Kashunamiut REAA and the Yupiit REAA are referred to in the 1985 law

19 authorizing their creation as “federal transfer REAAs.” The two federal transfer

20 REAAs lack the regional characteristics of the seventeen REAAs established

21 under AS 14.08.031. Instead, they exhibit community level characteristics similar

22 to those of city school districts.

23

24 The Kashunamiut federal transfer REAA is a relatively tiny enclave within the

25 Lower Yukon REAA. The boundaries of the Kashunamiut federal transfer REAA

26 are identical to those of the second class City of Chevak (population 765).<sup>30</sup>

27 They encompass slightly more than 1 square mile. In contrast, the Lower Yukon

28 REAA encompasses an estimated 19,302 square miles. The first class City of

29 Saint Mary’s is also within the Lower Yukon Model Borough.

30

31 The Yupiit federal transfer REAA is made up of three small non-contiguous

32 enclaves within the Lower Kuskokwim REAA. One is the territory within the

34 boundaries of the City of Akiak

36 (encompassing approximately 2

38 square miles), another is the

40 territory within the former City of

42 Akiachak (encompassing less than

44 12 square miles) and the third is the

46 territory within the former City of

Insert map showing the Lower Yukon,  
Kashunamiut, Lower Kuskokwim, and  
Yupiit REAAs

<sup>30</sup> If effect, this circumstance allows residents of the federal transfer REAAs to have a similar level of local control over school function and first class cities in the unorganized borough. The federal transfer REAAs are not subject to the same rules as city and borough school districts.

1 Tuluksak (encompassing approximately 4 square miles). Collectively those  
2 three non-contiguous enclaves encompass approximately 18 square miles. In  
3 contrast, the Lower Kuskokwim REAA comprises an estimated 23,792 square  
4 miles.

5  
6 The Lower Yukon Model Borough and Lower Kuskokwim Model Borough are  
7 inhabited by an estimated 21,461 residents. That population, together with the  
8 estimated 29,679 residents of the eight previously noted model boroughs,  
9 contains approximately 62.5% of the population of the unorganized borough.

10  
11 **(iii). Two other model boroughs largely conform to REAAs except for the**  
12 **placement of relatively small portions of the REAAs within the model**  
13 **boundaries of adjoining existing organized boroughs**

14  
15 AS 14.08.031 requires the division of the entire unorganized borough into  
16 REAAs. In some cases, the result has been unnatural or contrived REAA  
17 boundaries. For example, Klukwan, which is an enclave in the core of the  
18 Haines Borough, is a non-contiguous component of the Chatham REAA. In the  
19 Commission's view, Klukwan has greater social, cultural, economic, geographic,  
20 transportation, and other ties to the area within the Haines Borough than it does  
21 to communities served by the Chatham REAA. Consequently, the Commission  
22 placed Klukwan in the same model borough as the Haines Borough. For similar  
23 reasons, the Commission placed parts of the unorganized borough within the  
24 model boundaries of four other existing organized boroughs.

25  
26 In two of the five cases, remnant model boroughs were created that largely  
27 conform to their respective REAAs. Those are the Yukon Flats Model Borough  
28 and the Yukon Koyukuk Model Borough.

29  
30 The Yukon Flats Model Borough boundaries are identical to those of the Yukon  
31 Flats REAA except that Livengood and Central were placed within the Fairbanks  
32 North Star Borough model boundaries. The Commission concluded that  
34 Livengood and Central had more in  
36 common with the area inside the  
38 Fairbanks North Star Borough than it did  
40 with the remainder of the area within the  
42 Yukon Flats REAA. In particular, road  
44 connections, proximity, and economic  
46 ties between Fairbanks, Livengood, and  
48 Central were significant factors guiding  
50 the Commission's action.

52  
54 Livengood and Central comprise 163  
56 residents, representing approximately

Insert map showing distinctions  
between the Yukon Flats REAA and  
Yukon Flats Model Borough as well as  
the difference between the Yukon-  
Koyukuk REAA and Yukon Koyukuk  
Model Borough

1 10% of the population of the Yukon Flats REAA. In other words, approximately  
2 90% of the Yukon Flats REAA population remains within the Yukon Flats Model  
3 Borough.

4  
5 Similarly, the Yukon Koyukuk Model Borough boundaries are identical to those of  
6 the Yukon Koyukuk REAA except that Nenana and the nearby settlement of Four  
7 Mile Road were placed within the Denali Borough model boundaries. Here again,  
8 the Commission concluded that Nenana and Four Mile Road had more in  
9 common with the area inside the Denali Borough than it did with the remainder of  
10 the area within the Yukon Koyukuk REAA. Road connections, proximity, and  
11 economic ties were critical factors leading to the Commission's action.

12  
13 Nenana and Four Mile Road are inhabited by 440 residents, or 12.0% of the  
14 3,669 residents within the Yukon Koyukuk REAA (including Tanana, Galena, and  
15 Nenana). In this case, 88% of the population of the Yukon Koyukuk REAA  
16 remains intact as the Yukon Flats Model Borough.

17  
18 The Yukon Flats Model Borough and the Yukon Koyukuk Model Borough  
19 encompass an estimated 4,188 residents. That population, together with the  
20 estimated 51,140 residents of the ten previously noted model boroughs, includes  
21 approximately 67.6% of the population of the unorganized borough.

22  
23 **(iv). Two model boroughs conform precisely to former REAAs that have**  
24 **since merged**

25  
26 When the Commission undertook the model boundaries project, Adak was a  
27 substantial military base. At the time, Adak existed as an REAA separate from  
28 the adjoining Aleutian Region REAA. Military operations at Adak have since  
29 ceased and the base has closed. The Adak REAA was subsequently merged  
30 with the Aleutian Region REAA.

31  
32 While the Commission has never – up to the undertaking of this review of the  
33 unorganized borough – taken steps to merge the Adak model borough (named  
34 the Aleutians Military Model Borough) and the Aleutians West Model Borough, it  
35 has long recognized that such would be a logical action given the circumstances  
36 noted above. The current estimated population of the Adak model borough is  
37 only 316.

38  
39 The Aleutians Military Model Borough and the Aleutians West Model Borough are  
40 inhabited by an estimated 4,750 residents. That population, along with the

**One model borough is  
composed of two REAAs**

estimated 55,328 residents of the twelve  
previously noted model boroughs, comprises  
approximately 73.4% of the population of the  
unorganized borough.



The Upper Tanana Basin Model Borough covers the combined areas of the Delta Greely REAA and the Alaska Gateway REAA. At the time that the boundaries of the Upper Tanana Basin Model Borough were defined, the prospect existed for base realignment and closure at Fort Greely in the Delta Greely REAA. That, in part, prompted the Commission to combine the two REAAs into one model borough.

With the recent selection of Fort Greely as a research site for the U.S. missile defense system and the prospect for development of the Pogo mineral deposit as a world-class gold mine, the economic future for the Delta Greely region is brighter than it was in the early 1990s. Changing circumstances in that part of the unorganized borough might warrant modification of the previously established model boundaries. The Upper Tanana Basin Model Borough encompasses an estimated 6,329 residents, or 7.7% of the unorganized borough population.

**About 2% of the unorganized borough population lies within the model boundaries of organized boroughs**

As noted earlier, the Commission found in the course of the model borough boundaries project that five areas of the unorganized borough had greater ties to existing organized boroughs than they did to other areas of the unorganized borough. Specifically, the Commission determined the following:

- the City and Borough of Juneau model boundaries were defined to include Hobart Bay (population 3);
- the Denali Borough model boundaries were defined to include Nenana (population 402) and Four Mile Road (population 38);
- the Fairbanks North Star Borough model boundaries were defined to include Livengood (population 29) and Central (population 134);
- the Ketchikan Gateway Borough model boundaries were defined to include Meyers Chuck (population 21) and Hyder (population 97);
- the Lynn Canal Borough model boundaries (encompassing the existing Haines Borough) were defined to include Klukwan (population 139) and Skagway (population 862).

Collectively, the five areas listed above are inhabited by 1,725 individuals, or 2.1% of the population of the unorganized borough.

**The remainder of the unorganized borough is comprised of four model boroughs in southeast Alaska**

1 Except for parts of Alaska's panhandle noted above that are included within the  
2 model boundaries of existing boroughs, the Commission divided the unorganized  
3 areas of southeast Alaska into four model boroughs. Those are the Glacier Bay  
4 Model Borough, Chatham Model Borough, Prince of Wales Model Borough, and  
5 Wrangell-Petersburg Model Borough. Collectively, those four model boroughs  
6 are inhabited by 13,323 residents, or 16.3% of the unorganized borough.<sup>31</sup>

7  
8 The Glacier Bay Model Borough encompasses communities that are presently  
9 within the Chatham REAA. The population of the Glacier Bay Model Borough  
10 (1,739) comprises approximately 50.5% of the population of the Chatham REAA.  
11 Because of the particularly unnatural or contrived nature of the Chatham REAA  
12 boundaries (e.g., comprised of three non-contiguous components), 29.1% of its  
13 population is found within the model boundaries of an existing borough. The  
14 remaining 20.4% of the Chatham REAA population is grouped with Kake in the  
15 Chatham Model Borough.

16  
17 The Prince of Wales Model Borough is within the Southeast Island REAA. Its  
18 population is 4,653, or 40.9% of the population of the area within the Southeast  
19 Island REAA. The Wrangell-Petersburg Model Borough comprises 48.6% of the  
20 population within the Southeast Island REAA boundaries. The balance of the  
21 population within the Southeast Island REAA is comprised of Kake, Hyder, and  
22 Meyers Chuck, whose location within model boroughs was addressed previously.

23  
24 The Commission views model borough boundaries as a credible and useful tool  
25 in guiding future policy decisions regarding the establishment and alteration of  
26 borough governments. Recently, the concept of model borough boundaries has  
27 been challenged by certain interested organizations. The challenge seems to  
28 have its roots in a recent decision of the Commission to reject a particular  
29 borough proposal.

30  
31 On September 27, 2002, the Local Boundary Commission unanimously denied a  
32 petition to incorporate a Skagway borough principally because the proposal  
33 lacked the regional nature that is fundamental to boroughs. Petitioners for the  
34 Skagway borough subsequently filed a judicial appeal.<sup>32</sup> As reflected in the  
35 following newspaper account, Skagway also pledged to undertake an effort to

---

<sup>31</sup> The various percentages of the population of the unorganized borough stated in this section of the Report total 99.5%. The one-half of one percent discrepancy stems largely from the fact that Census data are not available to indicate in which model boroughs 349 residents of the unorganized borough (four-tenths of 1% of the unorganized borough population) live. The other one-tenth of one percent discrepancy is due to rounding.

<sup>32</sup> The appeal was filed in Superior Court in Juneau on November 27, 2002 (Case No. 1JU-02-01024CI).

1 encourage the legislature to review the model borough boundaries and other  
2 borough standards.<sup>33</sup>

3  
4 In addition to a legal path, Skagway plans to take its concerns about  
5 borough formation to the state Legislature, [Skagway City Manager and  
6 Petitioner's Representative Bob] Ward said. The community has asked the  
7 Alaska Municipal League and the Southeast Conference, a regional  
8 organization, for support.

9  
10 "We're asking the Legislature to look at the Model Borough Boundaries  
11 Act<sup>34</sup> and look at the standards ... with an eye to considering whether or  
12 not those things are still pertinent in the Alaska of today as opposed to the  
13 Alaska envisioned by the members of the Constitutional Convention in  
14 1956," Ward said. "I'm not sure if it will help us, but it may help the  
15 borough process in general."

16  
17 At the apparent behest of Skagway, the Southeast Conference<sup>35</sup> Alaska  
18 Municipal League<sup>36</sup> and the City of Petersburg adopted resolutions in 2002  
19 declaring the model borough boundaries to be outdated and unfeasible. The  
20 resolutions adopted by those three organizations declared "... the economics of

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<sup>33</sup> *Juneau Empire*, November 15, 2002.

<sup>34</sup> There is no "Model Borough Boundaries Act". As noted above, model borough boundaries were defined by the Local Boundary Commission with support from the Legislature. However, the Legislature never formally adopted the model borough boundaries. The Commission adopted model borough boundaries by regulation.

<sup>35</sup> The Southeast Conference describes itself as a "regional, nonprofit corporation that advances the collective interests of the people, communities and businesses in southeast Alaska. Members include municipalities, Native corporations and village councils, regional and local businesses, civic organizations and individuals from throughout the region. Our mission is to undertake and support activities that promote strong economies, healthy communities and a quality environment in southeast Alaska." < <http://www.seconference.org/>>

<sup>36</sup> The Alaska Municipal League (AML) is a voluntary, nonprofit, nonpartisan, statewide organization of over 140 cities, boroughs, and unified municipalities in Alaska, representing over 98 percent of Alaskan residents. AML also offers Associate status to organizations and commercial firms, and Affiliate status to professional associations of municipal officials. <[http://www.akml.org/index.asp?Type=B\\_BASIC&SEC={5F567EBE-14AF-4F10-B368-B5A3C16F017B}](http://www.akml.org/index.asp?Type=B_BASIC&SEC={5F567EBE-14AF-4F10-B368-B5A3C16F017B}>)>

1 the State have dramatically declined and changed within the past ten years,  
2 rendering the Model Borough Boundary proposal of 1992<sup>37</sup> obsolete and  
3 impractical.”

4  
5 None of the organizations advised the Commission about the proposed  
6 resolutions before they acted on them. Consequently, the Commission had no  
7 opportunity to comment on the matter while it was under consideration by those  
8 organizations.

9  
10 The Commission differs with the views expressed by those organizations in two  
11 fundamental respects. The first concerns the claim that Alaska’s economy has  
12 “dramatically declined” during the past decade. The second concerns the  
13 relationship between the state of the economy and model borough boundaries.

14  
15 With respect to the first issue, while particular segments of Alaska’s economy  
16 (e.g., commercial salmon fishing and timber) have indeed suffered sharp  
17 declines over the past decade, other components of Alaska’s economy have  
18 grown. In the Commission’s view, Alaska’s economy has not “dramatically  
19 declined” overall during the last ten years. Certainly, there has been no  
20 economic decline comparable to the post-TAPS construction downturn of the late  
21 1970s or the statewide recession of the mid-to-late 1980s. Consider, for  
22 example, the following comparison of six important economic measures for the  
23 most recent year on record vis-à-vis the previous ten years:

- 24  
25 ■ Alaska’s gross state product increased by 12.0%<sup>38</sup>  
26 ■ Employment rose by 19.8%<sup>39</sup>  
27 ■ The rate of unemployment dropped by 27.6% (from 8.7% to 6.3%).<sup>40</sup>  
28 ■ Per capita personal income climbed 33.2%.<sup>41</sup>  
29 ■ Personal income grew by 48.3%.<sup>42</sup>

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<sup>37</sup> There is no “Model Borough Boundary proposal of 1992”. As noted above, model borough boundaries were defined and formally adopted in regulation by the Local Boundary Commission.

<sup>38</sup> In 2000, Alaska’s gross state product was \$27,747,000,000; the comparable figure in 1990 was \$24,774,000,000. That represents an increase of 12.0%. Source: Bureau of Economic Analysis.

<sup>39</sup> Annual average employment in 2001 was 301,792; the comparable figure for 1991 was 251,940. Source: Alaska Department of Labor.

<sup>40</sup> The annual average unemployment rate in 1991 was 8.7%; the comparable figure for 2001 was 6.3%. That represents a drop of 2.4 percentage points or a 27.6% drop in the rate of unemployment. Source: Alaska Department of Labor.

<sup>41</sup> Per capita personal income in 2001 was \$30,936, which was \$7,710 higher than the 1991 figure of \$23,226. Source: Bureau of Economic Analysis.

- 1     ▪ The value of taxable property increased by 63.1%.<sup>43</sup>

2  
3     Regarding the second issue, the Commission takes the view that if Alaska's  
4     economy had "dramatically declined" model borough boundaries would not have  
5     been rendered "obsolete and impractical". Significant reductions in the *strength*  
6     of the economy may affect the *economic viability* of prospective borough  
7     governments. However, model borough boundaries are dependent upon  
8     economic interrelationships and other factors (not strength of the economy).

9  
10    The Commission cannot apply a different set of borough standards to existing  
11    organization boroughs than it applies to unorganized areas of Alaska. Thus, if  
12    economic changes during the past decade had rendered model borough  
13    boundaries "obsolete and impractical", it would have had the same effect on the  
14    formal corporate boundaries of organized boroughs. The same would hold true  
15    for REAAs.

16  
17    Yet, there has been only one borough boundary change in the past ten years.  
18    That change resulted in an *expansion* of the boundaries of the Yakutat borough.  
19    Moreover, there have been no changes in the boundaries of REAAs during the  
20    past ten years.

21  
22    As noted in the foregoing, with few exceptions, model borough boundaries  
23    closely follow REAA boundaries. In fact, the vast majority of residents of the  
24    unorganized borough live in model boroughs that are identical to the REAAs in  
25    which they live. The fact that there is no clamor to change the boundaries of  
26    REAAs suggests to the Commission that those advocating changes in or  
27    abandonment of model borough boundaries are more fundamentally opposed to  
28    borough government boundaries as embodied in Alaska's constitution, rather  
29    than just model borough boundaries.<sup>44</sup>

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<sup>42</sup> Personal income in 2001 was \$19,641,252,000; the comparable 1991 figure was \$13,242,314,000. Source: Bureau of Economic Analysis.

<sup>43</sup> The 2002 full and true value of taxable property in Alaska (excluding oil and gas property) was \$41,725,315,500. That figure was 63.1% higher than the comparable 1992 figure of \$25,576,072,700. Source: State Assessor.

<sup>44</sup> Alaska is probably the only state that sets regional governmental jurisdictional boundaries on the basis of relevant geo-political standards such as natural geography, social, cultural, transportation, economy, and communications factors. Elsewhere, regional governmental boundaries largely reflect such factors as surveyors' section lines, rivers rather than natural drainage basins and like unifying natural geographic features, centuries-old post-colonial county boundaries, etc. Further, unlike Alaska, boundaries of regional governments in other states are typically much harder to revise to reflect changing socio-economic and other conditions.

**Summary description of each model borough.**

A summary of the area encompassed by each of the model boroughs is provided below. A map showing model borough boundaries and the boundaries of existing organized boroughs appears at the end of this section.

Insert map of each model borough in the appropriation place on the following pages showing localities within that model borough

**ALEUTIANS WEST MODEL BOROUGH.** The boundaries of the Aleutians West Model Borough encompass the entire area within the boundaries of the Aleutian Region REAA (including the first class City of Unalaska), with the exception of Adak. The following four communities and settlements are located within the boundaries of the Aleutians West Model Borough:

- Atka
- Attu Station
- Nikolski
- Unalaska

**ALEUTIANS-MILITARY MODEL BOROUGH.** The boundaries of the Aleutians-Military Model Borough encompass the former Adak REAA (which was dissolved on September 30, 1996). The following community is located within the boundaries of the Aleutians-Military Model Borough:

- Adak

**ANNETTE ISLAND MODEL BOROUGH.** The boundaries of the Annette Island Model Borough are identical to those of the Annette Island REAA. The following community is located within the boundaries of the Annette Island Model Borough:

- Metlakatla

**BERING STRAIT MODEL BOROUGH.** The boundaries of the Bering Strait Model Borough are identical to those of the Bering Strait REAA, including the first class City of Nome. The following seventeen communities and settlements are located within the Bering Strait Model Borough:

- |                    |                     |                     |
|--------------------|---------------------|---------------------|
| 50 ▪ Port Clarence | 56 ▪ Shaktoolik     | 62 ▪ Koyuk          |
| 51 ▪ Nome          | 57 ▪ Shishmaref     | 63 ▪ Teller         |
| 52 ▪ Unalakleet    | 58 ▪ Elim           | 64 ▪ Stebbins       |
| 53 ▪ Wales         | 59 ▪ White Mountain | 65 ▪ Savoonga       |
| 54 ▪ Golovin       | 60 ▪ Diomede        | 66 ▪ Brevig Mission |
| 55 ▪ Saint Michael | 61 ▪ Gambell        |                     |

**CHATHAM MODEL BOROUGH**. The boundaries of the Chatham Model Borough encompass three communities and settlements, including the first class City of Kake:

- Kake
- Angoon
- Cube Cove

**CITY AND BOROUGH OF JUNEAU**. The model boundaries of the City and Borough of Juneau include the existing City and Borough of Juneau, plus the following settlement in the unorganized borough:

- Hobart Bay

**COPPER RIVER MODEL BOROUGH**. The boundaries of the Copper River Model Borough are identical to those of the Copper River REAA. The following eighteen unincorporated communities and settlements are located within the Copper River Model Borough:

- |                     |                    |                  |
|---------------------|--------------------|------------------|
| ▪ Paxson            | 23 ▪ Gakona        | 29 ▪ Kenny Lake  |
| 18 ▪ Tazlina        | 24 ▪ Glennallen    | 30 ▪ Chistochina |
| 19 ▪ Silver Springs | 25 ▪ McCarthy      | 31 ▪ Mendeltna   |
| 20 ▪ Copperville    | 26 ▪ Copper Center | 32 ▪ Chitina     |
| 21 ▪ Slana          | 27 ▪ Gulkana       | 33 ▪ Nelchina    |
| 22 ▪ Willow Creek   | 28 ▪ Tonsina       | 34 ▪ Tolsona     |

**DENALI BOROUGH**. The model boundaries of the Denali Borough include the existing Denali Borough, plus the following two communities and settlements in the unorganized borough, including the home rule City of Nenana:

- Four Mile Road
- Nenana

**DILLINGHAM-NUSHAGAK-TOGIAC MODEL BOROUGH**. The boundaries of the Dillingham-Nushagak-Togiak Model Borough are identical to those of the Southwest Region REAA, including the first class City of Dillingham. The following eleven communities and settlements are located within the Dillingham-Nushagak-Togiak Model Borough:

- |                 |                    |                    |
|-----------------|--------------------|--------------------|
| 47 ▪ Ekuk       | 51 ▪ Ekwok         | 55 ▪ Manokotak     |
| 48 ▪ Dillingham | 52 ▪ Clark's Point | 56 ▪ Portage Creek |
| 49 ▪ Twin Hills | 53 ▪ Aleknagik     | 57 ▪ New Stuyahok  |
| 50 ▪ Koliganek  | 54 ▪ Togiak        |                    |

**FAIRBANKS NORTH STAR BOROUGH**. The model boundaries of the Fairbanks North Star Borough include the existing Fairbanks North Star Borough, plus the following two settlements in the unorganized borough:

- Central
- Livengood

**GLACIER BAY MODEL BOROUGH.** The boundaries of the Glacier Bay Model Borough include the following seven communities and settlements, including the first class cities of Pelican and Hoonah:

- |                |                     |                 |
|----------------|---------------------|-----------------|
| ▪ Pelican      | 8 ▪ Gustavus        | 11 ▪ Elfin Cove |
| 6 ▪ Whitestone | 9 ▪ Tenakee Springs | 12 ▪ Game Creek |
| 7 Logging Camp | 10 ▪ Hoonah         |                 |

**IDITAROD MODEL BOROUGH.** The boundaries of the Iditarod Model Borough are identical to those of the Iditarod REAA. The following eight communities and settlements are located within the Iditarod Model Borough:

- |                      |                 |               |
|----------------------|-----------------|---------------|
| 17 ▪ Lake Minchumina | 20 ▪ Nikolai    | 23 ▪ Shageluk |
| 18 ▪ McGrath         | 21 ▪ Holy Cross | 24 ▪ Grayling |
| 19 ▪ Takotna         | 22 ▪ Anvik      |               |

**KETCHIKAN GATEWAY BOROUGH.** The model boundaries of the Ketchikan Gateway Borough include the existing Ketchikan Gateway Borough, plus the following two communities and settlements in the unorganized borough:

- Meyers Chuck
- Hyder

**KUSPUK MODEL BOROUGH.** The boundaries of the Kuspuk Model Borough are identical to those of the Kuspuk REAA. The following eight communities and settlements are located within the Kuspuk Model Borough:

- |                  |                    |                  |
|------------------|--------------------|------------------|
| 35 ▪ Aniak       | 38 ▪ Upper Kalskag | 41 ▪ Red Devil   |
| 36 ▪ Chuathbaluk | 39 ▪ Lower Kalskag | 42 ▪ Stony River |
| 37 ▪ Sleetmute   | 40 ▪ Crooked Creek |                  |

**LOWER KUSKOKWIM MODEL BOROUGH.** The boundaries of the Lower Kuskokwim Model Borough are identical to those of the Lower Kuskokwim REAA, plus the Yupiit REAA (a federal transfer REAA serving Akiachak, Akiak, and Tuluksak). The Yupiit REAA is an enclave within the Lower Kuskokwim REAA. The following twenty-five communities and settlements are located within the Lower Kuskokwim Model Borough:

- |                  |                  |                   |
|------------------|------------------|-------------------|
| 50 ▪ Bethel      | 59 ▪ Chefornak   | 68 ▪ Kwigillingok |
| 51 ▪ Mekoryuk    | 60 ▪ Nunapitchuk | 69 ▪ Napakiak     |
| 52 ▪ Kongiganak  | 61 ▪ Akiak       | 70 ▪ Kasigluk     |
| 53 ▪ Newtok      | 62 ▪ Akiachak    | 71 ▪ Tuluksak     |
| 54 ▪ Nightmute   | 63 ▪ Napaskiak   | 72 ▪ Goodnews Bay |
| 55 ▪ Eek         | 64 ▪ Quinhagak   | 73 ▪ Kwethluk     |
| 56 ▪ Toksook Bay | 65 ▪ Tuntutuliak | 74 ▪ Oscarville   |
| 57 ▪ Kipnuk      | 66 ▪ Tununak     |                   |
| 58 ▪ Atmautluak  | 67 ▪ Platinum    |                   |



**LOWER YUKON MODEL BOROUGH.** The boundaries of the Lower Yukon Model Borough are identical to those of the Lower Yukon REAA (including the first class City of Saint Mary's), plus the Kashunamiut REAA (a federal transfer REAA serving Chevak). The Kashunamiut REAA is an enclave within the Lower Yukon REAA. The following thirteen communities and settlements are located within the Lower Yukon Model Borough:

- |    |                    |    |                   |    |                 |
|----|--------------------|----|-------------------|----|-----------------|
| 7  | ▪ Saint Mary's     | 12 | ▪ Russian Mission | 17 | ▪ Pilot Station |
| 8  | ▪ Pitka's Point    | 13 | ▪ Hooper Bay      | 18 | ▪ Alakanuk      |
| 9  | ▪ Mountain Village | 14 | ▪ Scammon Bay     | 19 | ▪ Nunam Iqua    |
| 10 | ▪ Marshall         | 15 | ▪ Kotlik          |    |                 |
| 11 | ▪ Emmonak          | 16 | ▪ Chevak          |    |                 |

**LYNN CANAL MODEL BOROUGH.** The boundaries of the Lynn Canal Model Borough include the existing Haines Borough, plus the following two communities in the unorganized borough, including the first class City of Skagway:

- Klukwan
- Skagway

**PRIBILOF ISLANDS MODEL BOROUGH.** The boundaries of the Pribilof Islands Model Borough are identical to those of the Pribilof Islands REAA. The following two communities are located within the Pribilof Islands Model Borough:

- St. George
- St. Paul

**PRINCE OF WALES MODEL BOROUGH.** The boundaries of the Prince of Wales Model Borough include the following thirteen communities and settlements, including the first class cities of Craig, Klawock, and Hydaburg:

- |    |                |    |                  |    |                   |
|----|----------------|----|------------------|----|-------------------|
| 36 | ▪ Edna Bay     | 41 | ▪ Kasaan         | 46 | ▪ Point Baker     |
| 37 | ▪ Whale Pass   | 42 | ▪ Hollis         | 47 | ▪ Port Protection |
| 38 | ▪ Coffman Cove | 43 | ▪ Naukati Bay    | 48 | ▪ Hydaburg        |
| 39 | ▪ Thorne Bay   | 44 | ▪ Port Alexander |    |                   |
| 40 | ▪ Craig        | 45 | ▪ Klawock        |    |                   |

**PRINCE WILLIAM SOUND MODEL BOROUGH.** The boundaries of the Prince William Sound Model Borough are identical to those of the Chugach REAA, including the home rule City of Cordova and the home rule City of Valdez. The following five communities and settlements are located within the Prince William Sound Model Borough

- Valdez
- Whittier
- Cordova
- Chenega Bay
- Tatitlek

**UPPER TANANA BASIN MODEL BOROUGH.** The Upper Tanana Basin Model Borough encompasses the Delta Greely REAA and the Alaska Gateway REAA. The following nineteen communities and settlements are within the boundaries of the Upper Tanana Basin Model Borough:

- |                    |                        |                       |
|--------------------|------------------------|-----------------------|
| ▪ Chicken          | 12 ▪ Healy Lake        | 19 ▪ Northway Village |
| 6 ▪ Alcan Border   | 13 ▪ Northway Junction | 20 ▪ Tanacross        |
| 7 ▪ Eagle          | 14 ▪ Northway          | 21 ▪ Dry Creek        |
| 8 ▪ Dot Lake       | 15 ▪ Big Delta         | 22 ▪ Dot Lake Village |
| 9 ▪ Delta Junction | 16 ▪ Eagle Village     | 23 ▪ Tetlin           |
| 10 ▪ Tok           | 17 ▪ Fort Greely       |                       |
| 11 ▪ Deltana       | 18 ▪ Mentasta Lake     |                       |

**WRANGELL-PETERSBURG MODEL BOROUGH.** The Wrangell-Petersburg Model Borough encompasses the following four communities and settlements, including the home rule cities of Petersburg and Wrangell:

- Kupreanof
- Petersburg
- Wrangell
- Thom's Place

**YUKON FLATS MODEL BOROUGH.** The Yukon Flats Model Borough encompasses the Yukon Flats REAA with the exception of the communities and settlements of Livengood and Central. The Yukon Flats Model Borough includes the following nine communities:

- |                  |                     |                      |
|------------------|---------------------|----------------------|
| 37 ▪ Fort Yukon  | 40 ▪ Arctic Village | 43 ▪ Stevens Village |
| 38 ▪ Rampart     | 41 ▪ Beaver         | 44 ▪ Circle          |
| 39 ▪ Chalkyitsik | 42 ▪ Venetie        | 45 ▪ Birch Creek     |

**YUKON KOYUKUK MODEL BOROUGH.** The boundaries of the Yukon Koyukuk Model Borough are identical to those of the Yukon Koyukuk REAA (including the first class City of Galena and the first class City of Tanana), except that Nenana and Four Mile Road are excluded. The following seventeen communities and settlements are located within the Yukon Koyukuk Model Borough:

- |                 |                    |
|-----------------|--------------------|
| 52 ▪ Coldfoot   | 63 ▪ Hughes        |
| 53 ▪ Galena     | 64 ▪ Minto         |
| 54 ▪ Manley Hot | 65 ▪ Ruby          |
| 55 Springs      | 66 ▪ Kaltag        |
| 56 ▪ Bettles    | 67 ▪ Nulato        |
| 57 ▪ Evansville | 68 ▪ Wiseman       |
| 58 ▪ Alatna     | 69 ▪ New Allakaket |
| 59 ▪ Tanana     |                    |
| 60 ▪ Koyukuk    |                    |
| 61 ▪ Huslia     |                    |
| 62 ▪ Allakaket  |                    |

1

2  
1  
INSERT MAP SHOWING MODEL BOROUGH  
BOUNDARIES AND BOUNDARIES OF  
EXISTING ORGANIZED BOROUGH  
17

18

19

20

21 **Subpart (c). Conformance with Regional Educational Attendance Area**  
22 **Boundaries.**  
23

24

25 3 AAC 110.060(c) requires boundaries of new boroughs to conform to the limits  
26 of regional educational attendance areas (REAs), unless alternative borders  
27 better suit the application of all other borough standards. Specifically, 3 AAC  
28 110.060(c) states as follows:

29

30 **3 AAC 110.060(c).** The proposed borough boundaries must  
31 conform to existing regional educational attendance area  
32 boundaries unless the commission determines, after  
33 consultation with the commissioner of education and early  
34 development, that a territory of different size is better suited  
35 to the public interest in a full balance of the standards for  
36 incorporation of a borough.

37

38 The requirement that borough boundaries conform to REA boundaries reflects  
39 the strong parallel between the statutory borough standards in AS 29.05.031  
40 (except for the economic capacity standard<sup>45</sup>) and statutory standards for  
41 REAs. A comparison of those standards is provided below.

Borough Standards (AS 29.05.031)	REA Standards (AS 14.08.031)
"the population of the area is interrelated and integrated as to its social, cultural, and economic activities, and is large and stable enough to support borough government;"	"As far as practicable, each regional educational attendance area shall contain an integrated socio-economic, linguistically and culturally homogeneous area."
"the boundaries of the proposed borough or unified municipality conform generally to natural geography and include all areas	"Whenever possible, municipalities, other governmental or regional corporate entities, drainage basins, and other identifiable

<sup>45</sup> Of course, there is no economic capacity standard for REAs because they are fully funded by the State of Alaska.

necessary for full development of municipal services”	geographic features shall be used in describing the boundaries of the regional school attendance areas.”
“land, water, and air transportation facilities allow the communication and exchange necessary for the development of integrated borough government.”	“In the formation of the regional educational attendance areas, consideration shall be given to the transportation and communication network to facilitate the administration of education and communication between communities that comprise the area.”
“the economy of the area includes the human and financial resources capable of providing municipal services; evaluation of an area's economy includes land use, property values, total economic base, total personal income, resource and commercial development, anticipated functions, expenses, and income of the proposed borough or unified municipality;”	[No comparable standard]

The statutory language concerning the creation of REAAs reads as follows:

**AS 14.08.031. Regional Educational Attendance Areas.** (a) The Department of Community and Economic Development in consultation with the Department of Education and Early Development and local communities shall divide the unorganized borough into educational service areas using the boundaries or sub-boundaries of the regional corporations established under the Alaska Native Claims Settlement Act, unless by referendum a community votes to merge with another community contiguous to it but within the boundaries or sub-boundaries of another regional corporation.

(b) An educational service area established in the unorganized borough under (a) of this section constitutes a regional educational attendance area. As far as practicable, each regional educational attendance area shall contain an integrated socio-economic, linguistically and culturally homogeneous area. In the formation of the regional educational attendance areas, consideration shall be given to the transportation and communication network to facilitate the administration of education and communication between communities that comprise the area. Whenever possible, municipalities, other governmental or regional corporate entities, drainage basins, and other identifiable geographic features shall be used in describing the boundaries of the regional school attendance areas.

1 (c) Military reservation schools shall be included in a regional educational  
2 attendance area. However, operation of military reservation schools by a  
3 city or borough school district may be required by the department under  
4 AS 14.12.020 (a) and AS 14.14.110. Where the operation of the military  
5 reservation schools in a regional educational attendance area by a city or  
6 borough school district is required by the department, the military  
7 reservation is not considered part of the regional educational attendance  
8 area for the purposes of regional school board membership or elections.  
9

10 (d) U.S. Bureau of Indian Affairs schools shall be included in a regional  
11 educational attendance area boundary.  
12

13 A report issued in September 1977 by the Center for Northern Educational  
14 Research, University of Alaska Fairbanks, describes the development of the  
15 initial REAA boundaries.  
16

17 The first major task under SB 35 was to determine the boundaries  
18 of the REAAs. Hearings were held throughout the state to solicit  
19 views from the affected citizens as to the extent of the REAA in  
20 which they would be located. The legislation provided that REAA  
21 boundaries would follow regional boundaries set under the Alaska  
22 Native Claims Settlement Act.<sup>46</sup> The statute appears to authorize  
23 division of the unorganized borough into as many REAAs as there  
24 are regional corporations, along coterminous lines. But use of  
25 regional lines was not intended to be exclusive. This is shown by  
26 subsection (b) of the same section, prescribing certain  
27 characteristics for REAAs. REAAs must contain an integrated and  
28 homogenous socioeconomic, linguistic, and cultural area.  
29 Consideration is also given to transportation and communication.  
30 Geographic features and existing boundaries are to be used in  
31 describing boundaries. Of course, first class cities and organized  
32 boroughs are to be excluded, as they constitute existing school  
33 districts.<sup>47</sup> Taken together, the two subsections suggest that  
34 REAA boundaries are to follow, rather than cross, regional  
35 corporation boundaries where they contact them and conform to  
36 natural or other predetermined boundaries. This is how the State  
37 Department of Community and Regional Affairs, which was  
38 charged with administering the act in consultation with the State  
39 Department of Education, interpreted it in a series of informational  
40 meetings in rural areas around the state in July and August, 1975.  
41 Later they began implementing it similarly when hearings were  
42 held in numerous bush locations regarding proposed boundaries.

---

<sup>46</sup> (footnote original) Alaska Statute §14.08.031(a) (1975). The statute also uses the word “sub-boundaries” in reference to the regional corporations. It is not clear what this refers to.

<sup>47</sup> (footnote original) Alaska Statute §14.08.031(b) (1975).

1 The result of the hearings was a division of the state into some 21  
2 REAAs.<sup>48</sup>

3  
4 *Law and Native Education* by David H. Getches, Center for Northern Educational  
5 Research, University of Alaska Fairbanks, p 29 (1977).

6  
7 Mr. Getches concluded in his study that the legislation establishing REAAs was  
8 flawed because it failed to link REAA boundaries with future boroughs. He noted  
9 (emphasis added):

10  
11 The Local Boundary Commission has authority to alter boundaries of  
12 proposed boroughs and cities before it accepts a petition for  
13 incorporation.<sup>49</sup> This power could be used to force coincidence  
14 between REAA and municipal boundaries, but only where it is  
15 necessary to meet statutory standards for borough incorporation, or in  
16 the case of cities, if the proposed boundaries are too restrictive or too  
17 expansive for efficient local government. **It is regrettable that the**  
18 **legislature did not mandate the setting of REAA boundaries with**  
19 **future incorporation of municipalities in mind and express that**  
20 **goal as their purpose. Supplemental legislation could convert the**  
21 **REAAs into truly transitional instruments, bringing the REAA**  
22 **arrangement into conformity with the spirit of local government**  
23 **preference in the state constitution.**

24  
25 Id., p 33.

26  
27 In a 1977 commentary regarding REAAs, the former Department of Community  
28 and Regional Affairs stated as follows regarding the similarities between borough  
29 boundary standards and those of REAAs.

30  
31 ... it is interesting to note the specific provisions of Senate Bill 35 which  
32 deal with the boundaries Regional Education (sic) Attendance Areas. ...  
33 Very similar statutory language exists at AS 29.18.030, which is the  
34 statutory provision establishing standards for borough incorporation. The  
35 similarity of the standards goes a long ways toward defining appropriate  
36 boundaries for potential regional governments. In fact, to some observers,  
37 the boundaries of the newly created Regional Education (sic) Attendance  
38 Areas (with some exceptions) generally conform to good borough  
39 boundaries. This has been a little alarming to many rural residents, since

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<sup>48</sup> (footnote original) Originally 20 REAAs were created by the Commissioner of Community and Regional Affairs on November 1, 1975, pursuant to authority in Alaska Stat. §14.08.031(a). But after a meeting of residents of REAA 17 and the governor, REAA 21 (including Whittier and Tatitlek) was created on November 24, 1975, dividing REAA 17 along the boundary between the Chugach and Ahtna Regional Corporations. Memorandum to REAA file from Michael C. Harper, Deputy Commissioner, Department of Community and Regional Affairs, dated December 3, 1975.

<sup>49</sup> (footnote original) Alaska Statute §29.18.090 .100 (1972) [since renumbered]

no small number of them are still concerned that the State is going to soon foist boroughs upon them.

*Comments Provided to CNER* (Center for Northern Educational Research), Department of Community and Regional Affairs, p 3-4 (October 10, 1977).

The former Department of Community and Regional Affairs concluded in its comments to the Center for Northern Educational Research as follows.

In summary, it can be said that formation of the Regional Education (sic) Attendance Areas can be viewed as a positive step towards the formation of regional government in rural Alaska. In particular the newly created service areas have provided a greater amount of local control over a local municipal type service, maintained and strengthened existing regional identifications, and provided boundaries that will be useful for the establishment of boroughs in the future. ...

Ultimately, the passage of Senate Bill 35, if for no reason other than the fact that it has generated discussion and interest, is going to have had (sic) a significant effect (probably the most significant since the passage of the 1964 mandatory borough act) towards developing regional government in this state.

*Id.*, p. 5-6.

Noted political scientist John E. Bebout, who served as a principal consultant to the Local Government Committee at the Alaska Constitutional Convention, also commented on the suitability of REAA boundaries as borough boundaries.<sup>50</sup>

The development of consensus for organized borough government seems likely in most regions to be a gradual process if it occurs at all. The first step toward it is to break up the single unorganized borough by a single act which establishes boundaries that make sense in terms of the socio-economic standards set by the constitution and reflect the needs of all regions of the state. To continue to create new boroughs, whether organized or

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<sup>50</sup> In addition to his service as a consultant and advisor to the Alaska Constitutional Convention; John E. Bebout was the Assistant Director, National Municipal League; faculty member of Graduate School of Public Administration, NYU; Rutgers University; University of Newark; Director, Citizens League of Cleveland and Cleveland Bureau of Governmental Research, Executive Assistant to Governor of New Jersey; Executive Vice President, New Jersey Constitutional Foundation; Consultant to U.S. Commission on Intergovernmental Relations; Author *Making of New Jersey Constitution, Documents and Readings in New Jersey Government*; and numerous articles on state and local government and civic action.

unorganized, piecemeal would be likely to leave shapeless areas that could never be assembled in viable borough units unless radical changes were made in the boundaries of already established boroughs, always a politically chancy business. The bill relating to unorganized borough sponsored in 1980 by the Community and Regional Affairs Committee (CS for Senate Bill 348) provides what appears to this writer to be a sound vehicle. Using the boundaries of the regional educational attendance areas subject to adjustment by the commissioner of Community and Regional Affairs, after public hearing, to take account of the established standards, the boundaries adopted by the regional corporations and the 1980 census divisions would give these boroughs boundaries that have the sanction of prior deliberation and experience. The proviso that no unorganized borough shall include territory within more than one native regional corporation under ANCSA underscores the intent to relate the new boroughs to areas already demonstrated to have some community of interests.

*Problems and Possibilities for Service Delivery and Government in the Alaska Unorganized Borough*, Department of Community and Regional Affairs, p. 88 (September 1981).

In its 1984 study of Alaska's Urban and Rural Governments, the University of Alaska's Institute of Social and Economic Affairs also commented on the similarities between borough standards and those of REAAs:

The Departments of Education and Community and Regional Affairs designed the regional educational attendance areas. One of their considerations was that districts be of a size that was administratively efficient; this was balanced against a desire to increase local control over schooling. The boundaries of claims act corporations were to be observed, and the new districts were to be appropriate for more general government purposes. In the minds of planners were the standards for borough incorporation: that each area be a natural geographic unit and an economic trading area, made up of individuals with similar cultural backgrounds and life-styles; and that transportation and communication among villages within an area be convenient.

The 21 rural districts were established as a compromise of the various objectives of designers. In each of the largest Native regions – Calista and Doyon – it was necessary to establish several districts. The designers paid attention to geographic and cultural factors. Thus, in the Calista region, districts were set up for each of



the two major rivers – the Kuskokwim and Yukon. In the Doyon region, districts were established on the two road arteries to the south – the Richardson and Parks highways, and villages that can generally be reached only by plane were divided between eastern and western regions. But one district (Iditarod) includes both Calista and Doyon villages. Given the large areas of regional corporations, single districts were set up for only four regions – Northwest Arctic (NANA region), Bering Straits, Copper River (Ahtna region), and Chugach. In general, REAAs cover the unorganized borough, except for about a dozen-and-a-half city school districts.

*Alaska's Urban and Rural Governments*, T. Morehouse, G. McBeath and L. Leask, p.197 (1984).

Administrative Order No. 65, issued by Governor Hammond on March 20, 1981, also recognized the equivalence of REAA boundaries to borough boundaries. It directed that:

All agencies of the executive branch of the state government shall use State Information Districts designated by this order to develop and report information on conditions within their respective jurisdiction and on their programs as may be required by specific requires by the Division of Budget and Management.

The State Information District boundaries shall coincide with the boundaries of the following as they now exist or may exist in the future:

- (1) all unified home rule municipalities,<sup>51</sup>
- (2) all organized boroughs; and
- (3) all rural (sic) educational attendance areas.

There have been a number of legislative proposals to convert REAAs into unorganized or organized boroughs. The previously-quoted comments of John Bebout referred to a 1980 proposal. A1987 proposal, House Bill 1, proposed to convert regional educational attendance areas into third class boroughs. In 1988, the House Research Agency reported as follows:

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<sup>51</sup> A unified home rule municipality is a particular type of borough, it must meet all standards for borough government. See 3 AAC 110.990(1); see also *Background on Boroughs in Alaska*, Alaska Department of Community and Economic Development, page 4, footnote 1 (November 2000).

House Bill 1 is directly analogous to the Mandatory Borough Act enacted in 1963. The Borough Act of 1961 had allowed for formation of boroughs under local option. After two years, only a single borough - - the tiny Bristol Bay Borough - - had formed, and it was obvious that local initiative was not working. The need for local areawide governments was increasing, however. There was an increasing demand for local services, particularly in the areas outside cities, an increasing demand for local control of essential local functions, a need to equalize tax burdens, and a need to integrate the special service districts - - like the Haines Independent School District - - into constitutional forms of local government. These needs provided the impetus for passage of the Mandatory Borough Act.

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The generally slow development of boroughs and the concomitant equity problems have been of continuing concern to the legislature. Between 1969 and 1979, the legislature considered at least eight bills addressing the organization and financing of regional governments in the unorganized borough. During the period 1979 – 1981, the House and Senate Community and Regional Affairs Committees and the Department of Community and Regional Affairs (DCRA) conducted an extensive study of the “local government” problem, including holding hearings in many villages and contracting with outside experts for reports on various aspects of the problem. Although two regions - - the Yukon Flats and the Yukon Kuskokwim Delta (Association of Village Council Presidents area) - - conducted borough formation studies, neither ever held an incorporation election.

....

Analysis of education costs and potential revenues of the boroughs that would have been created by HB 1 required some assumptions about how many boroughs would be formed, and which communities would be included in each borough. As prescribed by HB 1, the boundaries of the REAAs in place in 1982 would have formed the basis of new borough boundaries. The Kashanamuit and Yupiit REAAs were formed after 1985, thus these REAAs were merged with their surrounding REAA's. All city districts were placed within their surrounding REAAs. Current standards for incorporation of a borough require that there be at least two separate communities and that there be at least 1,000 residents. To be consistent with these standards, the Adak, Pribilof and Annette Island REAAs, which alone did not meet those standards, were incorporated into adjoining REAAs.

*A New Mandatory Borough Act: Local Education Costs and Potential Revenues of Newly Created Boroughs* (House Research Agency Report 88-A) p 14-16 (February 1988)

**Subpart (d). Presumption Against Enclaves.**

3 AAC 110.060(d) establishes a presumption that the boundaries of a borough will not include jurisdictional gaps or enclaves (i.e., “donut holes” not within the jurisdiction of a borough). Specifically, 3 AAC 110.060(d) provides as follows:

**3 AAC 110.060(d).** Absent a specific and persuasive showing to the contrary, the commission will presume that territory proposed for incorporation that is non-contiguous or that contains enclaves does not include all land and water necessary to allow for the full development of essential borough services on an efficient, cost-effective level.

The presumption against enclaves rests on the policy view that jurisdictional voids within municipal boundaries restricts maximum efficiency and effectiveness in the delivery of local services. Of the 161 municipal governments in Alaska, only two have enclaves. The Commission approved an annexation (subject to review by the 2003 Legislature) to one of those two that would result in the elimination of the enclaves in the annexing municipality. If the Commission’s recommendation is approved by the 2003 Legislature, only one municipal government in Alaska (Haines Borough) will have boundaries that enclose an enclave.

#### **Part 6. 3 AAC 110.065. Best Interests of State.**

The last standard in the Alaska Administrative Code concerning borough governments relates to the broad public interest. As noted previously, AS 29.05.100 allows the Commission to approve a borough incorporation proposal only if the proposal “is in the best interests of the state”

The Commission adopted 3 AAC 110.065 to guide it in determining whether a borough incorporation proposal serves the broad public interest. The standard provides as follows:

**3 AAC 110.065. Best Interests of State.** In determining whether incorporation of a borough is in the best interests of the state under AS 29.05.100 (a), the commission may consider relevant factors, including whether incorporation

- (1) promotes maximum local self-government;
- (2) promotes a minimum number of local government units;
- (3) will relieve the state government of the responsibility of providing local services; and
- (4) is reasonably likely to expose the state government to unusual and substantial risks as the prospective successor to the borough in the event of the borough’s dissolution.

The Commission has also adopted 3 AAC 110.980 to guide it in the application of best interest standards. 3 AAC 110.980 states:

**3 AAC 110.980. DETERMINATION OF BEST INTERESTS OF THE STATE**

If a provision of AS 29 or this chapter requires the commission to determine whether a proposed municipal boundary change or other commission action is in the best interests of the state, the commission will make that determination on a case-by-case basis, in accordance with applicable provisions of the Constitution of the State of Alaska, AS 29.04, AS 29.05, AS 29.06, and this chapter, and based on a review of

(1) the broad policy benefit to the public statewide; and

(2) whether the municipal government boundaries that are developed serve

(A) the balanced interests of citizens in the area proposed for change;

(B) affected local governments; and

(C) other public interests that the commission considers relevant.

**Part 7. 3 AAC 110.900-910. Transition & Non-Discrimination.**

In addition to the foregoing specific standards relating to borough incorporation, the Commission has adopted two other regulations establishing requirements that are applicable to borough incorporation proposals and all other actions that come before the Commission. The first is a general requirement intended to ensure a smooth and careful transition (3 AAC 110.900) to actions approved by the Commission. The second is intended to ensure that no action approved by the Commission will bring about the denial of civil or political rights because of race, color, creed, sex, or national origin.

The two general provisions are as follows.

**3 AAC 110.900. TRANSITION**

(a) A petition for incorporation, annexation, merger, or consolidation must include a practical plan that demonstrates the capacity of the municipal government to extend essential city or essential borough services into the territory proposed for change in the shortest practicable time after the effective date of the proposed change. A petition for city reclassification under AS 29.04, or municipal detachment or dissolution under AS 29.06, must include a

1 practical plan demonstrating the transition or termination of  
2 municipal services in the shortest practicable time after city  
3 reclassification, detachment, or dissolution.

4 (b) Each petition must include a practical plan for the  
5 assumption of all relevant and appropriate powers, duties,  
6 rights, and functions presently exercised by an existing  
7 borough, city, unorganized borough service area, and other  
8 appropriate entity located in the territory proposed for  
9 change. The plan must be prepared in consultation with the  
10 officials of each existing borough, city and unorganized  
11 borough service area, and must be designed to effect an  
12 orderly, efficient, and economical transfer within the shortest  
13 practicable time, not to exceed two years after the effective  
14 date of the proposed change.

15 (c) Each petition must include a practical plan for the  
16 transfer and integration of all relevant and appropriate assets  
17 and liabilities of an existing borough, city, unorganized  
18 borough service area, and other entity located in the territory  
19 proposed for change. The plan must be prepared in  
20 consultation with the officials of each existing borough, city,  
21 and unorganized borough service area wholly or partially  
22 included in the area proposed for the change, and must be  
23 designed to effect an orderly, efficient, and economical  
24 transfer within the shortest practicable time, not to exceed  
25 two years after the date of the proposed change. The plan  
26 must specifically address procedures that ensure that the  
27 transfer and integration occur without loss of value in assets,  
28 loss of credit reputation, or a reduced bond rating for  
29 liabilities.

30 (d) Before approving a proposed change, the  
31 commission may require that all boroughs, cities,  
32 unorganized borough service areas, or other entities wholly  
33 or partially included in the area of the proposed change  
34 execute an agreement prescribed or approved by the  
35 commission for the assumption of powers, duties, rights, and  
36 functions, and for the transfer and integration of assets and  
37 liabilities.

### 38 **3 AAC 110.910. STATEMENT OF NON-DISCRIMINATION**

39 A petition will not be approved by the commission if  
40 the effect of the proposed change denies any person the  
41 enjoyment of any civil or political right, including voting  
42 rights, because of race, color, creed, sex, or national origin.  
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